

**STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE DIVISION**

In the Matter of **TLC Homecare LLC** ) **FINAL ORDER**  
**dba Helping Hands Home Care** ) Case No. INS 03-08-002

The Director of the Oregon Department of Consumer and Business Services (director), commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.318(3)(d) and 731.505(4), and Oregon Administrative Rules (OAR) 836-043-0101 *et seq*, to review a workers' compensation insurance final premium audit billing (billing) issued by Liberty Northwest Insurance Corporation (insurer) to TLC Homecare LLC dba Helping Hands Home Care (employer).

**History of the Proceeding**

On or about 7/8/03<sup>1</sup>, the employer received from the insurer a billing dated 7/3/03 for the audit period from 5/16/02 to 6/1/03.

On 7/31/03, the director timely received from the employer a written request for a hearing.

On 8/1/03, the director mailed to the employer a petition form for the employer to complete and return so that the director received it by 9/29/03.

On 10/13/03, the director mailed a letter to the employer informing it that the director had dismissed its request for a hearing because the director did not receive a completed petition.

On 10/16/03, the director received from the employer a letter dated 10/15/03 requesting the director reconsider the dismissal because the employer claimed that it did not receive the petition form.

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<sup>1</sup> The employer said in its request for a hearing that it received the billing on 7/8/03 but said in its petition that it received it on or about 7/16/03. We use the first date. However, regardless of the date, the employer timely requested a hearing.

On 10/17/03, the director essentially withdrew the dismissal and sent another petition form for to the employer to complete and return so that the director received it by 12/15/03.

On 10/23/03, the director timely received from the employer the completed petition.

On 10/27/04, the director referred the request to the Office of Administrative Hearings (OAH).

On 11/6/03, OAH issued a notice scheduling a hearing to be held on 2/17/04.

On 11/6/03, OAH also issued an order granting the employer's request for a stay of all collection efforts by or on behalf of the insurer of any amount billed in the billing until this proceeding is concluded.

On 3/11/04, OAH issued a notice rescheduling the hearing to be held on 4/22/04.

On 4/22/04, OAH held a hearing. The hearing was conducted by Ella D. Johnson, an administrative law judge of OAH. The employer did not appear and was not represented at the hearing. The insurer appeared and was represented at the hearing by Barbara Woodford, an attorney. The insurer did not call any witnesses. The insurer offered Exhibits 101 to 110 as its documentary evidence. All of the insurer's exhibits were admitted into the record.

On 4/23/04, OAH issued a proposed order. The proposed order recommended that the director affirm the billing because (1) the employer did not present any evidence to support its position, and (2) the insurer presented a prima facie case showing that the billing was correct. The proposed order informed the employer and insurer that they could file with the director written exceptions to the proposed order within 30 days after the proposed order was served on the employer and insurer. On the same date, OAH mailed a copy of the proposed order to the employer and insurer.

The director did not receive any exceptions from the employer or the insurer.

Therefore, the director now makes the following final decision in this proceeding.

### **Findings of Fact, Conclusions of Law and Opinion**

The director adopts, and incorporates herein by this reference, the findings of fact, conclusions of law, and opinion of proposed order as the facts, conclusions, and reasoning of this final order.

### **Order**

The billing is affirmed and the stay is removed.

### **Notice of Right to Judicial Review**

Each party may have the right to appeal this final order to the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. If a party wants to appeal the order, the party must file a petition for judicial review with the Court of Appeals within 60 days from the date this order was served on the party. If the order was personally delivered to a party, then the date of service is the day the party received the order. If the order was mailed to a party, then the date of service is the day the order was mailed to the party, not the day the party received the order. If a party does not file a petition within the 60-day time period, then the party will lose the right to appeal this order. If a party appeals the order, the party should also send a copy of the petition to the Insurance Division by delivering it to Labor and Industries Building, 350 Winter Street NE, Room 440 (4<sup>th</sup> Floor), Salem, Oregon; or mailing it to PO Box 14480, Salem, OR 97309-0405, or faxing it to 503-378-4351; or e-mailing it to [mitchel.d.curzon@state.or.us](mailto:mitchel.d.curzon@state.or.us).

Dated July 28, 2004

/s/ Joel Ario  
Joel Ario  
Administrator  
Insurance Division  
Department of Consumer and Business Services

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