



On 2/17/06, OAH scheduled a hearing to be held on 5/22/06, and issued an order granting the stay in the billing case.

On 2/24/06, the director received from the employer a written request for hearing to review ORAC's decision as stated in its letter dated 2/1/06.

On 3/1/06, the director mailed to the employer a letter and a petition form.

On 4/21/06, the director timely received from the employer the completed petition. The director assigned case number INS 06-04-028 to the case to review ORAC's decision. This case is referred to hereinafter as the classification case.

On 4/25/06, the director referred case number INS 06-04-028 to the OAH.

On 5/26/06, OAH combined both the billing and classification cases and scheduled a hearing for them to be held on 8/17/06.

On 8/17/06, OAH held a hearing. The hearing was conducted by Rick Barber, an administrative law judge of OAH. The employer was a party to both cases. The insurer was a party to the billing case but not the classification case. ORAC was a party to the classification case but not the billing case. The employer appeared and was represented at the hearing by Dave Kranz, as the employer's authorized representative pursuant to OAR 836-005-0112 and OAR 137-003-0555. The employer called Dave Kranz as its only witness. The employer did not offer any documentary evidence. The insurer appeared and was represented at the hearing by Shannon Rickard, an Assistant Attorney General assigned to represent the insurer, an attorney. The insurer called Theresa Smith as its only witness. The insurer offered Exhibits A1 to A16 as its documentary evidence. All of the insurer's exhibits were admitted into the record. ORAC appeared at and was represented at the hearing by Tim Hughes, the Recording Secretary for ORAC, as its authorized representative. ORAC called Tim Hughes as its only witness. ORAC did not offer any documentary evidence.

On 9/21/06, OAH issued a proposed order. The proposed order concluded that classification code 7219 was the correct code to be assigned when the employer hauled materials owned by another entity, and therefore the billing was correct. The proposed order recommended that the director affirm the billing and ORAC's

decision. 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.

The director did not receive from the parties any exceptions to the proposed order.

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, and reasoning of the proposed order as the findings of facts, conclusions, and reasoning of this final order.

**Order**

The billing is affirmed and the stay is withdrawn in the billing case.

ORAC's decision is affirmed in the classification case.

**Notice of Right to Judicial Review**

A party has the right to appeal this final order to the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. A party may institute a proceeding for judicial review by filing with the court a petition for judicial review 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 files a petition, the party is requested to also send a copy of the petition to the Insurance Division.

Dated May 3, 2007

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

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