

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

In the Matter of **Reich Construction, LLC**) **FINAL ORDER**
) Case No. INS 06-10-005

The Director of the Oregon Department of Consumer and Business Services (director), commenced this administrative proceeding, at the request of Reich Construction, LLC (employer), pursuant to Oregon Revised Statutes (ORS) 737.318(3)(d) and ORS 737.505(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 the employer.

History of the Proceeding

On 8/10/06, the employer received from the insurer a billing dated 8/7/06 for the audit period from 5/10/05 to 6/1/06. The billing informed the employer that it may request a hearing by sending to the director a written request for a hearing so that the director receives the request within 60 days after the employer received the billing. See ORS 737.318(3)(d), ORS 737.505(4), and OAR 836-043-0170(1).

On 8/21/06, the director timely received from the employer a written request for a hearing to review the billing.

On 10/18/06, the director timely received from the employer the completed petition.

On 10/23/06, the director referred the request to the Office of Administrative Hearings (OAH).

On 10/26/06, OAH scheduled a hearing to be held on 2/12/07.

On 2/5/07, OAH rescheduled the hearing to be held on 4/9/07.

On 4/9/07, OAH held a hearing. The hearing was conducted by Rick Barber, an administrative law judge of OAH. The employer appeared and was represented at the hearing by Rayann Reich, as the employer's authorized representative pursuant

to OAR 836-005-0112 and OAR 137-003-0555. The employer called Rayann Reich as its witness. The employer offered Exhibit 1 as its documentary evidence which was admitted into the record. The insurer appeared and was represented at the hearing by Barbara Woodford, an attorney. The insurer called DeAnn Bigham as its witness. The insurer offered Exhibits 101 to 111 as its documentary evidence which were admitted into the record.

On 5/24/07, OAH issued a proposed order. The proposed order recommended that the director affirm the billing because the employer's workers performed more than debris removal tasks at job sites, and therefore classification code 5610 did not apply but 5645 did. 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 proposed order as the findings of fact, conclusions, and reasoning of this final order.

Order

The billing is affirmed.

Notice of Right to Judicial Review

A party has the right to judicial review of this final order pursuant to ORS 183.480 and 183.482. A party may request judicial review by sending a petition for judicial review to the Oregon Court of Appeals. The court must receive the petition within 60 days from the date this order was sent to the party. If a party files a petition, the party is requested to also send a copy of the petition to the Insurance Division by delivering it to the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th 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.

Dated July 16, 2007

/s/ Carl N. Lundberg
Carl N. Lundberg
Deputy Administrator
Insurance Division
Department of Consumer and Business Services

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