STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:	FINAL ORDER
DeVry Builders, LLC	OAH No. INS-WCA 16-03-009
	Agency Case No.: 15-10-001

Procedural History

1. The Director of the Oregon Department of Consumer and Business Services (Director), by and through the Division of Financial Regulation, formerly the Insurance Division (Division), commenced the above entitled administrative proceeding to review a worker's compensation insurance final premium audit billing (billing) issued by SAIF Corporation (SAIF) to DeVry Builders, LLC (DeVry), pursuant to Oregon Revised Statutes (ORS) 737.256(1), ORS 737.505(3), and Oregon Administrative Rules (OAR) 836-043-0200 *et.seq.*

2. The Director has reviewed the entire record and additional submissions in this matter.

Division of Financial Regulation
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

Findings of Fact and Opinion

The Director finds that:

3. SAIF Corporation issued a Final Premium Audit Billing, and DeVry received that billing, on or before February 3, 2016.

4. On February 3, 2016, DeVry sent an email to the Division requesting a hearing for the premium audit.

5. On March 16, 2016, the Division sent a letter to DeVry, verifying receipt of the hearing request and providing the insured with a copy of the petition form to perfect the hearing request in order to comply with Oregon law. The letter stated: "We must receive the completed petition by May 17, 2016." The letter further stated: "If we do not receive the completed petition by the above due date, then we will dismiss the employer's request for hearing."

6. On May 18, 2016, the insured sent an email to Gail Gage at the Division, forwarding the completed petition.

7. SAIF filed its motion to dismiss with the Office of Administrative Hearings on June 9, 2016.

8. On June 17, 2016, ALJ Barber sent a letter to DeVry requesting a response to the motion. DeVry did not respond.

9. The Director adopts, and incorporates herein by this reference, any remaining findings of fact, conclusions of law, and reasoning of the Proposed Order as the findings of fact, conclusions of law, and reasoning of this final order.

Conclusion of Law

The Director concludes that:

10. DeVry was timely in its request for a hearing.

11. DCBS forwarded a petition to DeVry that it must return a completed petition by May 17, 2016.

12. DeVry was not timely in returning the petition, in violation of OAR 836-043-0170.

13. The ALJ correctly dismissed the request for hearing pursuant to OAR 836-043-0170.

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Order

The hearing request filed by DeVry Builders, LLC is dismissed as untimely pursuant to OAR 836-043-0170, and SAIF's Final Premium Audit Billing is affirmed.

Notice of Right to Judicial Review

A party has the right to judicial review of this order pursuant to ORS 183.480 and ORS 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 served on the party. If the order was personally delivered to a party, then the date of service is the date the party received the order. If the order was mailed to a party, then the date of service is the date the order was mailed to the party, not the date 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 Division of Financial Regulation.

Dated September 13, 2016

Laura N. Cali, Commissioner
Department of Consumer and Business Services

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