No. 310817

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
DEPARTMENT OF LABOR & INDUSTRIES,

Respondent,

v.

DONALD M. SLAUGH, ET AL

Appellant.

BRIEF OF RESPONDENT
LOCKHEED MARTIN HANFORD CORPORATION

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A. ASSIGNMENT OF ERROR

1. Whether the Superior Court erred in entering the order of August 6, 2012, overturning a decision of the Board of Industrial Insurance Appeals.

Issues Pertaining to Assignments of Error

1. Does the supervisor of industrial insurance have discretion under RCW 51.36.10 to consider life-sustaining treatment after a claim is closed with a permanent partial disability award? (Assignment of Error 1.)

Standard of Review

The Appellate Court must ascertain whether there was substantial evidence to support the findings of the trial court. *Groff v. Dep't of Labor & Indus.*, 65 Wn.2d 35, 41, 395 P.2d 633 (1964). The Appellate Court's review is limited to examination of the record to see whether substantial evidence supports the Superior Court findings, and whether the Superior Court's conclusions of law flow from the findings. *Young v. Dep't of Labor & Indus.*, 81 Wn. App. 123, 128, 913 P.2d 402 (1996). "Substantial evidence" has been defined as consisting of sufficient quantity to persuade a fair-minded person of the truth or correctness of the order. *Brighton v. Dep't of Transp.*, 109 Wn. App. 855, 862, 38 P.3d 344 (2001).

The hearing in Superior Court shall be de novo, but based solely on the evidence presented at the Board of Industrial Insurance Appeals ("Board"). RCW 51.52.115. The Superior Court, as the trial court, has "no limitation on the intensity of its review of that record." *Garrett Freightliners Inc., v. Dep't of Labor & Indus.,* 45 Wn. App. 335, 341, 725 P.2d 463 (1986). The findings and decision of the Board are presumed correct; however, this presumption is rebuttable. RCW 51.52.115; *Scott Paper Co. v. Dep't of Labor & Indus.*, 73 Wash.2d 840, 843, 440 P.2d 818 (1968); *Layrite Products Co. v. Degenstein*, 74 Wn. App. 881, 887, 880 P.2d 535 (1994). Prior decisions by the Board are not precedential and hold no precedential value. *Romo v. Dep't of Labor & Indus.,* 92 Wn. App. 348, 356, 962 P.2d 844 (1998); *The Dep't of Labor & Indus. v. DeLozier*, 100 Wn. App. 73, 77, 995 P.2d 1265 (2000). The court's review must include analysis of statutory construction when disputed because the construction of a statute is a question of law that is reviewed de novo. *Frost v. Dep't of Labor and Indus.*, 90 Wn. App. 627, 631, 954 P.2d 1340 (1998). If the court reviews the Board decision and determines that the Board acted within its power and correctly construed the law and facts, the decision of the Board shall be confirmed; otherwise, it shall be reversed or modified. RCW 51.52.115.

B. STATEMENT OF THE CASE

Appellant filed a claim for an injury to his lungs sustained while working for the self insured employer. (CP-CABR, p.76)[1]. The Department of Labor and Industries ("Department") issued an order on December 4, 2003, allowing appellant's claim for an occupational disease. (CP-CABR, p.76). On February 14, 2008, the Department issued an order closing appellant's claim without further award for time loss benefits or permanent partial disability (PPD). (CP-CABR, p.76). The Department cancelled this order after appellant filed an appeal with the Board, which left the claim open for further treatment. (CP-CABR, p.76). On May 13, 2008, the self insured employer appealed to the Board, which issued an order granting the appeal on May 21, 2008. (CP-CABR, p.76). On November 19, 2008, the Board entered an Order on Agreement of Parties that incorporated the Board Report of Proceedings Agreement of Parties, which contained the following stipulation:

> "C) If maximum medical improvement has been reached, determine whether or not the law permits the Department to consider the discretionary authorization of life-sustaining treatment per the second proviso of RCW 51.36.010 after a claim is closed with a permanent partial disability award." (CP-CABR, p.77).

The Department issued an order on December 26, 2008, conforming to the Agreement of Parties. (CP-CABR, p.77).

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[1] The administrative record created at the Board of Industrial Insurance Appeals and reviewed at Superior Court is the Certified Appeal Board Record, referred to as "CABR."

The Department issued an order on September 29, 2009, closing the claim with a Category 4 permanent partial disability (PPD) award for permanent variable respiratory impairment with normal baseline spirometry. (CP-CABR, p.62, 77). Following an appeal to the Board, the Department reassumed jurisdiction over the claim. (CP-CABR, p.77). On May 24, 2010, the Department issued an order affirming its prior order of September 29, 2009. (CP-CABR, p.77). The Department then issued an order on May 25, 2010, stating:

> This claim was closed on 9/29/09 with an award for permanent partial disability. The law does not permit the department to consider the discretionary authorization of life-sustaining treatment per the second proviso of RCW 51.36.010 after a claim is closed with a permanent partial disability award. (CP-CABR, p.67, 78).

Appellant sought reconsideration of this Department order, which was forwarded to the Board as a direct appeal. (CP-CABR, p.69, 78). The Board granted the appeal to address the following issue: Does the application of RCW 51.36.010 concerning the discretionary authorization of life-sustaining treatment apply to claims closed with permanent partial disability? Or, can there be an ongoing treatment order if the claimant is not permanently totally disabled? (CP-CABR, p.71, 78, 90).

Board Decision

Following review of briefs submitted by the parties, Industrial Appeals Judge Steven R. Yeager issued his Proposed Decision and Order on April 20, 2011. (CP-CABR, p.54). Judge Yeager concluded the Department's May 25, 2010 order was incorrect and that the Department has the authority under the second proviso to RCW 51.36.010 to authorize treatment on a discretionary basis when a claim closed with an award for PPD. (CP-CABR, p.58). In support of his decision, Judge Yeager wrote, "It is not my place to overrule, disregard, or not follow Board Precedent. Nor does it serve any purpose for me to discuss the merits of the parties' arguments concerning statutory construction." (CP-CABR, p.57).

The Department and self insured employer sought review of the Proposed Decision and Order. (CP-CABR, p.3, 27). On June 7, 2011, the Board issued an Order Denying Petition for Review. (CP-CABR, p.1). The Department appealed the Board order denying review of the Proposed Decision and Order to Franklin County Superior Court. (CP, p. 98-107).

Superior Court Decision

The trial court reversed the Board decision, finding: (1) The Department does not have the authority under RCW 51.36.010 to authorize further treatment to an injured worker once the worker's claim has been closed with an award of permanent and partial disability; (2) The

Department's order of May 25, 2010, which concluded the Department lacked the authority to authorize further treatment to Mr. Slaugh, was correct as a matter of law, and it should have been affirmed by the Board; and (3) The Board's order that denied the Petitions for Review that were filed from the Proposed Decision and Order, which, itself, reversed the Department's May 25, 2010 order, was incorrect, and should be reversed. (CP, p. 12-16).

C. SUMMARY OF ARGUMENT

The law does not permit the Department to consider the discretionary authorization of life-sustaining treatment per the second proviso of RCW 51.36.010 after a claim is closed with a permanent partial disability award.

D. ARGUMENT

I. The Department is afforded agency deference in interpreting RCW 51.36.010 to exclude discretionary authorization of life-sustaining treatment after a claim is closed with a permanent partial disability award.

The Department interprets RCW 51.36.010 to exclude discretionary authorization of life-sustaining treatment after a claim is closed with a permanent partial disability award. RCW 51.36.010 provides in relevant part:

[Proper and Necessary Treatment]
Upon the occurrence of any injury to a worker entitled to compensation under the provisions of this title, he or she shall receive proper and necessary medical and surgical services at the hands of a physician or licensed advanced registered nurse practitioner of his or her own choice, if conveniently located, and proper and necessary hospital care and services during the period of his or her disability from such injury.

[Limits on Duration of Treatment]
In all accepted claims, treatment shall be limited in point of duration as follows:

[PPD] In the case of **permanent partial disability**, not to extend beyond the date when compensation shall be awarded him or her, **except** when the worker returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him or her shall cease;

[TTD] in case of **temporary disability** not to extend beyond the time when monthly allowances to him or her shall cease: **[Proviso 1] PROVIDED,** That after any injured worker has returned to his or her work his or her medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his or her more complete recovery;

[PTD] in case of a **permanent total disability** not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: **[Proviso 2] PROVIDED, HOWEVER,** That the supervisor of industrial insurance, solely in his or her discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such worker's life or provide for the administration of medical and

> therapeutic measures including payment of prescription medications, but not including those controlled substances currently scheduled by the state board of pharmacy as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary.

In its May 25, 2010 order, the Department, through the Supervisor of Industrial Insurance, stated:

> "This claim was closed on 9/29/09 with an award for permanent partial disability. The law does not permit the department to consider the discretionary authorization of life-sustaining treatment per the second proviso of RCW 51.36.010 after a claim is closed with a permanent partial disability award." (CP-CABR, p. 67).

The Department is charged with the administration and enforcement of the Industrial Insurance Act. When a statute is ambiguous, substantial deference is given to the agency that is charged with its administration and enforcement. *See Port of Seattle v. Pollution Control Hearings Bd.,* 151 Wn.2d 568, 593-594, 90 P.3d 659 (2004). Although the court may substitute its judgment for that of the Department, great weight is accorded to the agency's view of the law it administers. *Dep't of Labor & Indus. v. Allen*, 100 Wn. App. 526, 530, 997 P.2d 977 (2000); *see also City of Pasco v. Pub. Emp't Relations Comm'n*, 119 Wn.2d 504, 507-508, 833

P.2d 381 (1992) (When an administrative agency is charged with the application of a statute, the agency's interpretation of an ambiguous statute is accorded great weight.). The Department has consistently found the second proviso of RCW 51.36.010 does not permit the Department to consider discretionary authorization of life-sustaining treatment after a claim is closed with a permanent partial disability award. Therefore, deference must be given to the Department's interpretation of the statute.

II. Rules of statutory construction do not support appellant's reading of RCW 51.36.010.

The rules of statutory construction do not support the argument that RCW 51.36.010 authorizes treatment on a claim that has been closed with a permanent partial disability award. That statute contains two provisos—proviso 1 and proviso 2. Proviso 1 modifies cases where temporary disability has ended but before claimant is determined to be at maximum medical improvement. It does not modify cases where claimant has been awarded PPD or permanent total disability (PTD). By its terms, it also does not modify cases where claimant is continuing to receive total temporary disability (TTD) benefits. Under the Department/self insured employer's interpretation, proviso 1 would apply only to the extent the worker has returned to work *before* the worker receives the PPD award. In short, proviso 1 only modifies the sentence to which it is attached, the

main clause of the sentence—the sentence on temporary disability, not the sentence on PPD. In other words, if the worker returns to work before reaching maximum medical improvement, he/she may receive further medical treatment in order to reach maximum medical improvement—*viz.*, a "more complete recovery."

Before that point, the worker may return to work (for instance, light duty work). *Hunter v. Bethel School District*, 71 Wn. App. 501, 507, 859 P.2d 652 (1993), *rev. denied* 123 Wn.2d 1031, 877 P.2d 695 (1994). If so, medical treatment ceases at the point of return to work unless the worker is still medically improving, in which case treatment may continue until the worker reaches maximum medical improvement. A worker is at maximum medical improvement if no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. WAC 296-20-010(3); *Pybus Steel Co. v. Dep't of Labor & Indus.*, 12 Wn. App. 436, 439, 530 P.2d 350 (1975); *In re: Lyle A. Rilling*, BIIA Dec., 88 4865 (1990); *In re: Deanne C. Clarke*, Dckt. No. 97 3934 & 97 3934-A (July 7, 1999). When a worker reaches maximum medical improvement, that is the time when

PPD is awarded, if at all. Therefore, if a worker receives an award of PPD, the worker was found to be at maximum medical improvement.

Appellant believes the term "provided, however" is a significant break in the statute and is clear intent it applies to all previous provisions of that section. Given appellant's construction of the statute, proviso 1 would modify the cases of both PPD and TTD, and proviso 2 would modify the cases of PPD, TTD and PTD. Based on this construction of the statute, appellant's interpretation is overly complicated and inconsistent with grammar, contiguity, and the purpose of a proviso. This also produces absurd results.

The grammar of the statute indicates that proviso 2 applies only to the case of PTD, not to the cases of PPD or TTD. That is, proviso 2 is an adjectival clause modifying the main clause of the sentence to which it is appended: "In all accepted claims, treatment shall be limited in point of duration as follows:" ... [Head of Main Clause] "[I]n case of a permanent total disability [treatment] not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: [Head of Adjectival Clause] PROVIDED, HOWEVER, ..." Additionally, proviso 1 applies only to the clauses that precede it, and similarly proviso 2 applies only to the clause that precedes it. That clause begins at the semicolon ... "; in case of a permanent total

disability not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: PROVIDED, HOWEVER." The basic rule of statutory construction is that a proviso to one clause of a statute applies only to the last antecedent, that is, the words or phrases that immediately precede it. *See, e.g., Berrocal v. Fernandez*, 155 Wn.2d 585, 593, 121 P.3d 82 (2005); *Flowers v. Carville*, 310 F.3d 1118, 1124 (9th Cir. 2002).

The purpose of a proviso is not to enlarge upon the enacting clause, but to restrain, modify or create an exception to it. *Jepson v. Dep't of Labor & Indus.*, 89 Wn.2d 394, 403, 573 P.2d 10 (1977). It is a rule of construction that "where the enacting clause is general in its language and objects, and a proviso is afterwards introduced, that proviso is construed strictly, and takes no case out of the enacting clause which does not fall fairly within its terms." *City of Seattle v. Western Union Telegraph Co.*, 21 Wn.2d 838, 850, 153 P.2d 859 (1944). In other words, a proviso "carves special exceptions only out of the enacting clause, and those who set up any such exception must establish it as being within the words, as well as within the reason, thereof." *Id.* The application of proviso 2 to those paragraphs of the statute limited by proviso 1 would serve to enlarge those paragraphs, not limit them. Therefore, appellant's interpretation of proviso 2 is not within reason.

Another problem with appellant's interpretation of the statute is that proviso 2, when read in the context of TTD or PPD, both with proviso 1 as an additional limitation, is absurd. Courts should not construe statutory language so as to result in absurd or strained results. *State v. Ammons*, 136 Wn.2d 453, 458, 963 P.2d 812 (1998); *Duke v. Dr. Herschell Boyd*, 133 Wn.2d 80, 87, 942 P.2d 351 (1997). TTD may terminate even though the worker is not at maximum medical improvement. If the worker is not at maximum medical improvement, then because of proviso 1, proviso 2 is not needed to enable the worker to receive continued medical treatment. Moreover, *before* the worker is at maximum medical improvement, under proviso 1, the worker would be entitled to pain medications if needed to facilitate a more complete recovery, including Schedule I, II, III, or IV substances, which are forbidden under proviso 2. WAC 296-20-03019. Additionally, under appellant's interpretation of the statute, the limitation provided in proviso 1 is promptly contradicted by proviso 2. Why would the legislature need to state the limitation in RCW 51.36.010 about the extent of medical treatment in the cases of PPD and TTD if the legislature then proceeded to remove that limitation in proviso 2?

Another absurd result if using appellant's interpretation concerns PTD. If a worker receives an award of PTD, that award means that the worker has been found to be at maximum medical improvement. PTD is TTD that continues for the worker's expected work history because his work related injuries are permanently disabling to the point that he is unemployable. A worker is not assessed as *permanently* disabled until he/she is at maximum medical improvement. Appellant would not be at maximum medical improvement if, without treatment, his medical condition would swiftly deteriorate and be life threatening. *In re: Robert G. Thorsen*, Dckt. No. 05 23423 (January 24, 2007); *In re: Freda K. Hicks*, BIIA Dec., 01 14838 (2004). Otherwise, the claim would remain open, without an award of PTD. Therefore, RCW 51.36.010 would only apply to a worker with an award of PTD after the worker reaches maximum medical improvement and his claim closed, and his life threatening condition had become life threatening *after* the claim closed.

The distinction between the cases of TTD and PPD, and the case of PTD, is that in the former cases, the worker returns to work and in the latter case, the worker does not return to work. In the former cases, medical treatment may discretionarily continue until the point of maximum medical improvement (the point when PPD is awarded). In the latter case, because PTD is not determined until maximum medical

improvement has been reached, medical treatment does not continue as a right beyond an award of a pension, but it may be discretionarily provided if necessary either to save the worker's life from an allowed condition or to alleviate the worker's continuing pain. This is an important distinction between returning to work and not returning to work that appellant fails to account for in his argument.

When the worker develops a need for additional medical treatment *after* having his claim closed earlier because he had reached maximum medical improvement, the worker may apply to reopen the claim if the allowed conditions are aggravated. RCW 51.32.160. RCW 51.36.010 authorizes necessary medical treatment at any time to save the worker's life if he were on a pension. Nothing about the structure of the statute suggests the legislature intended the second proviso to apply to workers who receive PPD awards.

III. The Board significant decision, *In re Debra L. Reichlin*, should be overruled because it is contrary to the rules of statutory construction and agency deference.

In his appeal to the Board, appellant contended the Department erred in its conclusion that "the law does not permit the department to consider the discretionary authorization of life-sustaining treatment per the second proviso of RCW 51.36.010 after a claim is closed with a permanent partial disability award." Appellant argues that by virtue of *In*

re Debra L. Reichlin, BIIA Dec. 00 15943 (2003), the Board has interpreted RCW 51.36.010 to provide the Department discretion to authorize life-sustaining treatment after a claim is closed with a PPD award. The Industrial Appeals Judge agreed, stating:

> The Department and self insured employer agree that *Reichlin* is on point. Both argue that the Board should overrule its determination in that case, and return to the interpretation of RCW 51.36.010 contained in *In re David H. Malmberg*, Dckt. No. 86 1326 (November 12, 1987). It is not my place to overrule, disregard, or not follow Board precedent. Nor does it serve any purpose for me to discuss the merits of the parties' arguments concerning statutory construction. Having determined that *In re: Debra Reichlin*, BIIA Dec. 00 15943 (2003), is on point and controlling in this appeal, my task is complete. The Department's May 25, 2010 order should be reversed. [PDO 4/15-21].

The self insured employer disagrees with appellant and the Industrial Appeals Judge. The self insured employer contends that *In re Debra L. Reichlin* was wrongly decided because the most reasonable reading of RCW 51.36.010 indicates that the statute does not permit the Department to consider the discretionary authorization of life-sustaining treatment per the second proviso of RCW 51.36.010 after a claim is closed with a PPD award.

The Board ruled that proviso 2 applied globally to all the cases enumerated in the statute: PPD, TTD, and PTD. As the Board rationalized, proviso 2 follows the discussion of treatment for both PPD and PTD workers, so there is no distinction made in the proviso. The Board acknowledged the rules of statutory construction dictate that absent some obvious ambiguity, the words of the statute must be given their plain meaning. However, the Board interpreted the statute to read as a whole as not limiting the discretion to provide continued treatment to PTD cases. The rationalization was designed to reach a desired result rather than a principled rule-guided interpretation of the statute. The issue about interpreting RCW 51.36.010 is structural, not semantic.

Contrary to the Board assessment above, it is not a matter of the plain meaning of the words, but rather a matter of the scope of reference of proviso 2. Here, the relevant rules of construction regarding the appropriate structure of the statute are two: (1) A proviso to one clause of a statute applies to only the last antecedent unless the legislature expressed a different application. *See, e.g., Berrocal v. Fernandez*, 155 Wn.2d 585, 593, 121 P.3d 82 (2005); *Flowers v. Carville*, 310 F.3d 1118, 1124 (9th Cir. 2002). (2) Provisos are to be interpreted strictly and narrowly, not expansively. *E.g., Jepson v. Dep't of Labor & Indus.*, 89 Wn.2d 394, 404, 573 P.2d 10 (1977); *City of Seattle v. Western Union Telegraph Co.*, 21

Wn.2d 838, 850, 153 P.2d 859 (1944). Under the Board rational, the plain meaning of the words of the statute result in proviso 2 being applied globally, which, if that were an accurate assessment, then the doctrine of liberal interpretation would not be in play.

Only where *reasonable minds* can differ over what Title 51 RCW provisions mean, would the benefit of the doubt belong to the injured worker. *Cockle v Dep't of Labor & Indus.*, 142 Wn.2d 801, 811, 16 P.3d 583, 587 (2001). Even if the statute were ambiguous, the doctrine of liberal construction to favor the worker does not override the other statutory rules of construction. *See Senate Republican Campaign Comm. v. Public Disclosure Comm'n.*, 133 Wn.2d 229, 243, 943 P.2d 1358 (1997). Moreover, when the statute is ambiguous, based on either structural or semantic considerations, the court defers to the administrative agency's interpretation of a statute, in this case to the Department's interpretation. *City of Pasco v. Pub. Employment Relations Comm'n*, 119 Wn.2d 504, 507, 833 P.2d 381 (1992) (citing *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 813-814, 828 P.2d 549 (1992)). Here, the Department's longstanding interpretation is that RCW 51.36.010 does not authorize ongoing care to a worker whose claim has been closed with a PPD award. *See generally Port of Seattle v. Pollution Control Hr'gs Bd.*, 151 Wn.2d 568, 593-594, 90 P.3d 659 (2004); *and see* Victoria Kennedy's affidavit

dated January 12, 2011 (CABR-136).

The Board also noted that RCW 51.36.020(5) authorizes the Department to provide workers with mechanical appliances "after treatment has been completed" and "without regard to the date of injury or date treatment was completed notwithstanding any other provision of law." Under RCW 51.36.020(5), hearing aids and prostheses can be provided to any worker even where the claim has been closed with an award of PPD. So, the Board reasons, there should be no objection to the Department authorizing treatment after an award of PPD under RCW 51.36.010. That RCW 51.36.020(5) was enacted to expressly provide for hearing aids and prostheses indicates the legislature did not believe that RCW 51.36.010 would authorize such treatment. Therefore, RCW 51.36.020 undermines the Board rationale rather than providing support for the rationale.

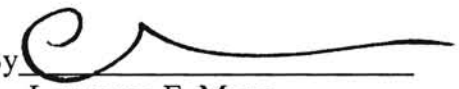
Regarding appellant's reliance on the Board decision *In re Debra L. Reichlin*, the doctrine of *stare decisis* is not applicable to statutory construction when it is decided that earlier interpretations are wanting, faulty, or even wrong. *Jepson v. Dep't of Labor & Indus.*, 89 Wn.2d 394, 403, 573 P.2d 10, 16 (1977). The Appellate Court is not bound by the decision *In re Debra L. Reichlin* because prior decisions by the Board are not precedential and hold no precedential value. *Romo v. Dep't of Labor &*

Indus., 92. Wn.App. 348, 356, 962 P.2d 844 (1998); *The Dep't of Labor & Indus. v. DeLozier*, 100 Wn. App. 73, 77, 995 P.2d 1265 (2000). The rules of statutory construction and agency deference make the Department's interpretation of RCW 51.36.010 correct. The Board has blatantly rewritten the statute to aid workers where the legislature saw no need to do so. Therefore, the self insured employer contends the Board erred in its interpretation of RCW 51.36.010 in the significant decision of *In re Debra L. Reichlin*, and the significant decision should be revisited and overruled.

E. CONCLUSION

Based on the foregoing reasons, the self insured employer hereby requests that the Appellate Court affirm the Superior Court's decision, finding in favor of the Department and self insured employer on the issue that the supervisor of industrial insurance cannot exercise discretion under RCW 51.36.010 to allow continued medical treatment after the Department closes a claim with an award for PPD.

Respectfully submitted this 4th day of January, 2013.

By 

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CERTIFICATE OF SERVICE

I certify that on the 4th day of January 2013, I caused a true and correct copy of this Brief of Respondent to be served on the following in the manner indicated below:

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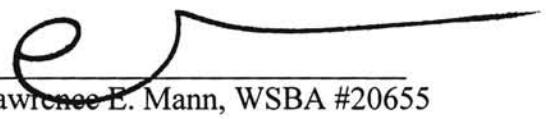

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