
In the Matter of the Compensation of
DEBRA J. KROHNKE, Claimant
Own Motion No. 04-0371M; 04-0399M
OWN MOTION ORDER
Daniel M Spencer, Claimant Attorneys
SAIF Corporation, Defense Attorneys

Reviewing Panel: Members Biehl and Langer.

The SAIF Corporation submitted a “Carrier’s Own Motion Recommendation” against the reopening of claimant’s 1994 injury claim for a “worsening” of his previously accepted condition (“right carpal tunnel syndrome”) (WCB Case No. 04-0371M) and a “post-aggravation rights” new or omitted medical condition (“left carpal tunnel syndrome”) (WCB Case No. 04-0399M). *See* ORS 656.278(1)(a), (b) (2001). Claimant’s aggravation rights have expired.

Based on the following reasoning, we deny claim reopening under ORS 656.278(1)(a), (b) (2001).

“Worsened” Condition Claim

SAIF opposed reopening the “worsened” condition claim on the grounds that the recommended medical treatment was not reasonable or necessary for the accepted condition. Pursuant to ORS 656.327, SAIF requested Director’s review of the requested medical treatment. (Medical Review Case No. 18461).

On January 28, 2005, SAIF notified the Medical Review Unit (MRU) that a subsequent insurer had accepted responsibility for claimant’s right carpal tunnel syndrome and as such, withdrew its request for Director’s review. On February 3, 2005, the MRU issued an order of dismissal (MRU Case No. DTX 05-0132). That order has not been appealed.

Under such circumstances, responsibility for claimant’s current right wrist condition (right carpal tunnel syndrome) rests with a subsequent insurer and, as such, is not compensably related to her 1994 injury. As a result, we are not authorized to reopen claimant’s 1994 “worsened” condition claim. ORS 656.278(1)(a) (2001).

“Post-Aggravation Rights” New/Omitted Medical Condition Claim

SAIF also issued a denial regarding a “post-aggravation rights” new medical condition (“left carpal tunnel syndrome”), contending that it was not compensable. OAR 438-012-0070; OAR 438-012-0090. Claimant requested a hearing regarding that denial. On October 22, 2004, we deferred action on this Own Motion “claim reopening” matter pending the litigation before the Hearings Division. (WCB Case No. 04-06801).

Noting that a subsequent insurer had accepted his “condition,” claimant withdrew his request for hearing. On March 3, 2005, Administrative Law Judge (ALJ) Pardington issued an Order of Dismissal, dismissing claimant’s pending hearing request. (WCB Case No. 04-06801). That order has not been appealed.

In light of the unappealed ALJ’s order, SAIF’s denial of claimant’s Own Motion claim for this “post-aggravation rights” new medical condition has become final. *See* OAR 438-012-0070. Consequently, as a matter of law, the denied condition is not compensable insofar as it pertains to claimant’s 1994 injury claim. *See Richard D. Renish*, 56 Van Natta 1546 (2004).

Under such circumstances, we are not authorized to reopen the claim for the aforementioned “post-aggravation rights” new medical condition under ORS 656.278(1)(b) (2001).

Accordingly, these requests for claim reopening are denied.

IT IS SO ORDERED.

Entered at Salem, Oregon on April 22, 2005