
In the Matter of the Compensation of
CINDY L. GENTZLER, Claimant
Own Motion No. 04-0111M
OWN MOTION ORDER
Kryger et al, Claimant Attorneys
Johnson Nyburg & Andersen, Defense Attorneys

Reviewing Panel: Members Langer and Biehl.

The insurer has submitted a “Carrier’s Own Motion Recommendation” form, indicating that claimant requests that it reopen her 1988 injury claim for a “worsening” of her previously accepted back condition. *See* ORS 656.278(1)(a) (2001). The insurer recommends against reopening the claim.

Claimant sustained a compensable injury on December 22, 1988. Claimant’s aggravation rights have expired. SAIF issued a denial on March 24, 2004, from which claimant requested a hearing with the Hearings Division. (WCB Case No. 04-02224).¹

Thereafter, claimant withdrew her pending request for hearing. On June 17, 2005, an Administrative Law Judge (ALJ) dismissed claimant’s hearing request. (WCB Case No. 04-02224). That order has not been appealed.

Based on the unappealed ALJ’s dismissal order, claimant’s current condition (on which her request for claim reopening under ORS 656.278(1)(a) (2001) rests) remains in denied status. As a result, we are not authorized to grant claimant’s current request for Own Motion relief. *See* ORS 656.278(1)(a) (2001).

Accordingly, claimant’s current request for claim reopening is denied.

IT IS SO ORDERED.

Entered at Salem, Oregon on August 9, 2005

¹ Additionally, the insurer contended that claimant’s compensable condition had not worsened requiring the requisite medical treatment and resulting in an “inability to work,” and that she was not in the workforce at the time of the current disability. ORS 656.278(1)(a) (2001). In this particular case, these matters need not be addressed because even if the “medical treatment,” “inability to work,” and “workforce” issues were found in claimant’s favor, the claim would still not qualify for reopening under ORS 656.278(1)(a) (2001) for the reasons expressed above.