
In the Matter of the Compensation of
JUDY L. DABOLING, Claimant
Own Motion No. 04-0442M
OWN MOTION ORDER
Unrepresented Claimant

Reviewing Panel: Members Lowell and Kasubhai.

The self-insured employer has submitted claimant's request to reopen her claim for a worsening of her accepted bilateral carpal tunnel condition. ORS 656.278(1)(a) (2001). Claimant's aggravation rights have expired. Based on the following reasoning, we find that her claim does not qualify for reopening.

Pursuant to ORS 656.278(1)(a) (2001), there are three requirements for the reopening of an Own Motion claim for a worsening of a compensable injury. First, the worsening must result in an inability of the worker to work. *See James J. Kemp*, 54 Van Natta 491 (2002). Second, the worsening must require hospitalization, surgery (either inpatient or outpatient), or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the worker to return to work. *Id.* Third, the worker must be in the "work force" at the time of disability as defined under the criteria in *Dawkins v. Pacific Motor Trucking*, 308 Or 254 (1989). *Id.* If a claimant meets these requirements, his or her Own Motion claim qualifies for reopening either by the Board or the carrier.

Here, claimant must satisfy the first requirement for reopening her Own Motion claim for a worsening of her compensable bilateral carpal tunnel condition; *i.e.*, whether claimant's compensable bilateral carpal tunnel condition worsened resulting in a partial or total inability to work. *Redeena M. Monroe*, 55 Van Natta 3730 (2003).

On this record, no medical evidence addresses that issue.¹ The resolution of the inability to work issue is a medical question that must be addressed by medical evidence. In other words, the Board cannot infer that a worsening (or a particular medical treatment) will result in an inability to work. *SAIF v. Calder*, 157 Or App 224, 227-28 (1998) ("[t]he Board is not an agency with specialized medical expertise entitled to take official notice of technical facts within its

¹ In fact, an April 2004 report from Drs. Snodgrass and Neumann states that, "[claimant] currently is performing her regular job duties without restrictions at this time." (Ex. 14-6).

specialized knowledge”). Instead, the record must include medical evidence that claimant’s compensable bilateral carpal tunnel condition worsened resulting in an inability to work. ORS 656.278(1)(a) (2001).

Under these circumstances, we conclude that this Own Motion claim for a worsened compensable bilateral carpal tunnel condition does not satisfy the inability to work criteria required under ORS 656.278(1)(a) (2001).² Accordingly, we are not authorized to reopen this Own Motion claim for a worsening of claimant’s previously accepted condition (bilateral carpal tunnel syndrome).³

IT IS SO ORDERED.

Entered at Salem, Oregon on February 16, 2005

² In light of our conclusion, we need not address the employer’s “compensability/responsibility” and “medical treatment” contentions. In this particular case, these matters need not be addressed because even if the “compensability/responsibility” and “medical treatment” issues were found in claimant’s favor, the record would still be insufficient to support a claim reopening under ORS 656.278(1)(a) (2001).

³ Finally, inasmuch as claimant is unrepresented, she may wish to consult the Workers’ Compensation Ombudsman, whose job it is to assist injured workers in such matters. She may contact the Workers’ Compensation Ombudsman, free of charge, at 1-800-927-1271, or write to:

WORKERS’ COMPENSATION OMBUDSMAN
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM, OR 97309-0405