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In the Matter of the Compensation of  
**ANDREA D. HALL, Claimant**  
Own Motion No. 05-0064M  
OWN MOTION ORDER REFERRING FOR A FACT FINDING HEARING  
Cary et al, Claimant Attorneys  
SAIF Legal, Defense Attorneys

Reviewing Panel: Members Langer and Biehl.

Claimant requested reconsideration of our April 20, 2005 Own Motion Order on Reconsideration that declined to reopen her 1999 claim for a “worsening” of her previously accepted conditions. *See* ORS 656.278(1)(a) (2001). Asserting that she was in the work force on the date of her disability (February 10, 2005), claimant seeks reconsideration of our decision.

Claimant sustained compensable cervical and facial injuries on June 24, 1999. Claimant’s aggravation rights have expired. Subsequently, claimant requested that her claim be reopened for a “worsening” of her previously accepted conditions. The insurer recommended denying the reopening of claimant’s “worsened” condition claim on the grounds that she was not in the work force at the time of disability.

In a March 22, 2005, we declined to reopen claimant’s “worsened” condition claim finding that she was not in the work force at the time of disability, *i.e.* February 10, 2005. Claimant sought reconsideration of that order submitting additional medical records from March 19, 2004 through September 27, 2004 including a report of an August 16, 2004 surgery (bilateral mandibular arthrocentesis). Additionally, claimant submitted an affidavit attesting to her employment history. As noted above, we affirmed our prior order finding that the date of disability remained February 10, 2005 and claimant had not established that she was in the work force at that time.

Claimant requested reconsideration of our April 20, 2005 Own Motion Order of Reconsideration. On May 20, 2005, we withdrew our prior orders and established a supplemental briefing schedule. Claimant submitted a supplemental affidavit attesting to her work history including assertions that may conflict with her prior statements and affidavit.

Claimant also seeks referral to the Hearings Division for a fact finding hearing. Claimant’s request is unopposed.

In light of such circumstances and considering the complexity of the issue arising from claimant's pending Own Motion claim, we conclude that it is appropriate to refer this Own Motion matter to the Hearings Division for an evidentiary hearing. OAR 438-012-0040(3). At the hearing, the documentary and testimonial record can be further developed regarding the parties' contentions. The hearing may be conducted in any manner that the ALJ determines will achieve substantial justice.

Following the hearing, the ALJ shall issue a recommendation to the Board within 30 days. In that recommendation, the ALJ shall make findings of fact and conclusions of law regarding the issues arising from claimant's request for Own Motion relief. Those findings and conclusions shall be contained in an unappealable recommendation, which the ALJ shall forward to the Board. After issuance of the recommendation (or settlement document), the parties should advise the Board of their respective positions regarding the Own Motion matters. Thereafter, the Board would proceed with its review.

IT IS SO ORDERED.

Entered at Salem, Oregon on July 18, 2005