
In the Matter of the Compensation of
JERRY W. ANTHOUS, Claimant
Own Motion No. 04-0102M
OWN MOTION ORDER
Strooband & Ousey PC, Claimant Attorneys
Johnson Nyburg & Andersen, Defense Attorneys

Reviewing Panel: Members Kasubhai and Langer.

The insurer submitted claimant's request to reopen his 1990 claim for a worsened condition. ORS 656.278(1)(a) (2001). Claimant's aggravation rights have expired. The insurer opposed the reopening of claimant's 1990 claim. In addition, the insurer issued a denial on which claimant requested a hearing. (WCB Case No. 04-02494). On April 15, 2004, we deferred Own Motion action to await resolution of issues pending at the Hearings Division.

On February 18, 2005, Administrative Law Judge (ALJ) Marshall approved a "Disputed Claim Settlement" that resolved the parties' disputes pending before the Hearings Division and dismissed claimant's hearing request. Pursuant to that settlement, claimant agreed that the insurer's denial, as amended and supplemented in the agreement, would remain in full force and effect.

Also on February 18, 2005, we approved the parties' Claim Disposition Agreement (CDA), in which claimant released all rights to "non-medical service" benefits (including Own Motion benefits under ORS 656.278) under this 1990 claim.

Under such circumstances, claimant's current condition (which is the basis for his "worsening" claim) is unrelated to his October 1990 compensable injury. Moreover, his Own Motion benefits under this claim for his previously accepted conditions have been released pursuant to the approved CDA. Thus, we are without authority to reopen claimant's 1990 claim for a worsening of his previously accepted cervical and lumbar conditions under ORS 656.278(1)(a) (2001). *See Richard Tattoo*, 56 Van Natta 3965 (2004).

Accordingly, the request for Own Motion relief is denied.

IT IS SO ORDERED.

Entered at Salem, Oregon on March 9, 2005