
In the Matter of the Compensation of
EDWIN V. JOHNSON, Claimant
Own Motion No. 05-0314M
INTERIM OWN MOTION ORDER POSTPONING ACTION
Welch Bruun & Green, Claimant Attorneys
Alice M Bartelt, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

On October 21, 2005, we declined to authorize the reopening of claimant's claim for a "worsening" claim for a previously accepted low back condition. *See* ORS 656.278(1)(a). Claimant's aggravation rights have expired. We found that claimant had not established his presence in the work force at the time of the worsening. We also noted that the SAIF Corporation had challenged the appropriateness of the proposed medical treatment. *Edwin V. Johnson*, 57 Van Natta 2768 (2005).

Claimant requested reconsideration of our October 21, 2005 order. On November 29, 2005, we abated our order and established a briefing schedule to allow the parties to submit their positions regarding claimant's request for reconsideration. The parties submitted their briefs regarding the work force issue. However, regarding the appropriateness of the proposed medical treatment, SAIF indicates that the managed care organization (MCO) is still in the process of determining whether the proposed treatment is reasonable and necessary treatment for claimant's compensable condition. Claimant requests that we proceed with our reconsideration regardless of the MCO's findings because the medical necessity issue has been pending for many months.

Pursuant to OAR 438-012-0050(1)(c), we will act promptly upon a request for relief under the provisions of ORS 656.278 and our rules unless:

"(c) The claimant's request for payment of temporary disability compensation is based on surgery or hospitalization or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the claimant to return to work that is the subject of either a managed care dispute resolution review process or a Director's medical review under ORS 656.245, 656.260 or 656.327."

Here, the issue regarding the appropriateness of the proposed medical treatment has not been resolved. In accordance with OAR 438-012-0050(1)(c), we defer action on this request for Own Motion relief until resolution of the pending medical treatment dispute issue. After resolution of that issue, the parties are requested to submit a copy of the MCO's decision. In addition, the parties should advise us of their respective positions regarding the effect, if any, the MCO's decision has on claimant's request for Own Motion relief. Thereafter, we will proceed with our review.

IT IS SO ORDERED.

Entered at Salem, Oregon on February 27, 2006