
In the Matter of the Compensation of
TERRY D. QUEENER, Claimant
Own Motion No. 05-0416M
INTERIM OWN MOTION ORDER POSTPONING ACTION ON REVIEW OF
CARRIER CLOSURE
Malagon Moore et al, Claimant Attorneys
SAIF Legal, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

Claimant requests review of the October 28, 2005 Notice of Closure that did not award temporary or permanent disability for his “post-aggravation rights” new/omitted medical condition (“arachnoiditis”). Claimant requests the appointment of a medical arbiter to evaluate his permanent impairment.

FINDINGS OF FACT

On February 19, 1999, claimant sustained a compensable low back injury. Claimant’s aggravation rights have expired.

On October 17, 2005, the SAIF Corporation voluntarily reopened claimant’s claim for a “post-aggravation rights” new medical condition (“arachnoiditis”). ORS 656.278(1)(b) (2001); ORS 656.278(5) (2001); OAR 438-012-0030.

On October 28, 2005, SAIF closed the claim with a Notice of Closure that did not award permanent disability for his “post-aggravation rights” new/omitted medical condition (“arachnoiditis”).

Claimant has requested review of the October 2005 Notice of Closure. Claimant asserts entitlement to temporary and permanent disability for “post-aggravation rights” new medical condition and seeks the appointment of a medical arbiter.

CONCLUSIONS OF LAW AND OPINION

Claimant requests review of SAIF’s closure of his claim based on his disagreement with the impairment findings used to rate his disability. In addition, claimant requests appointment of a medical arbiter. *See John S. Ross*, 56 Van Natta 3369 (2004); *Edward A. Miranda*, 55 Van Natta 784 (2003)

Consistent with the procedures set forth in *Miranda*, we postpone our review of the Own Motion claim closure pending receipt of a medical arbiter's report. We also refer the claim to the Director to appoint a medical arbiter. The parties shall provide the Director with whatever information the Director deems necessary to assist the medical arbiter, including identification of the accepted "post-aggravation rights" new medical condition (arachnoiditis), the only condition for which claimant is presently entitled to a rating of permanent disability benefits under ORS 656.278(1)(b) (2001) and ORS 656.278(2)(d) (2001).¹

Following completion of the medical arbiter process, the parties shall provide written notification to the Board, along with copies of the medical arbiter report. Thereafter, a supplemental briefing schedule will be implemented to allow the parties an opportunity to address the effect, if any, these documents have on claimant's request for review of the closure notice. After completion of that schedule, we will proceed with our review.²

IT IS SO ORDERED.

Entered at Salem, Oregon on January 10, 2006

¹ The Appellate Review Unit (ARU) is requested to provide the Board with a copy of the entire written record (including any cover letter or questions to the arbiter from ARU) that it forwards to the medical arbiter.

² Our review of the temporary disability issue shall be deferred pending the receipt of the medical arbiter's report and the implementation of a supplemental briefing schedule.