
In the Matter of the Compensation of
VICKI BURLESON, Claimant
Own Motion No. 05-0338M
OWN MOTION ORDER OF DISMISSAL
Malagon Moore Et Al, Claimant Attorneys
SAIF Legal, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

The SAIF Corporation submitted a “Carrier’s Own Motion Recommendation,” indicating that claimant sought reopening of her 1984 injury claim for a “worsening” of her previously accepted conditions. ORS 656.278(1)(a). Claimant’s aggravation rights have expired. SAIF recommended against claim reopening.

SAIF issued a denial regarding the “worsened condition” claim. Claimant requested a hearing regarding that denial. (WCB Case No. 05-07637). On December 8, 2005, we deferred action on the Own Motion “claim reopening” matter to await resolution of the issues pending before the Hearings Division.

On June 19, 2006, Administrative Law Judge (ALJ) Donnelly approved a “Disputed Claim Settlement Agreement” that resolved the parties’ dispute pending before the Hearings Division and dismissed claimant’s hearing request. (WCB Case No. 05-07637). Pursuant to that settlement, the parties agreed that the denial of the “worsened condition” claim would be upheld. Thereafter, the ALJ approved the settlement and dismissed the hearing request. Based on the following reasoning, we dismiss claimant’s request for Own Motion relief regarding the “worsened condition” claim.

In *Jimmie L. Taylor*, 58 Van Natta 75, 77 (2006), we noted that, effective January 1, 2006, if a disputed “current condition” or medical services claim related to a “worsened condition” is never “determined to be compensable” under the amended rules, the carrier’s responsibility for the processing of the “worsened condition” claim does not materialize. *See* OAR 438-012-0001(2)(a), (3).

Here, claimant’s worsened condition claim was based on her medical services claim for her current bilateral wrist condition. Because of the parties’ approved settlement and the ALJ’s dismissal order, the basis of claimant’s worsened condition claim, *i.e.*, her current condition and medical services claim, has not been determined to be compensable.

Consistent with the *Taylor* holding, because claimant's "worsened condition" has not been determined to be compensable, there is no request for Own Motion relief to be processed. Consequently, SAIF's Own Motion recommendation regarding this "worsened condition" claim has become moot.

Accordingly, this Own Motion matter is dismissed.

IT IS SO ORDERED.

Entered at Salem, Oregon on July 26, 2006