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In the Matter of the Compensation of  
**CHERRY L. OTTERSON, Claimant**  
Own Motion No. 05-0360M  
OWN MOTION ORDER OF DISMISSAL  
Unrepresented Claimant  
Johnson Nyburg & Andersen, Defense Attorneys

Reviewing Panel: Members Biehl and Lowell.

The insurer submitted claimant's request for claim reopening for a worsening of her previously accepted condition ("overuse injury right wrist"). See ORS 656.278(1)(a). Claimant's aggravation rights have expired. The insurer submitted a "Carrier's Own Motion Recommendation" against reopening, contending that claimant's current condition is not causally related to the accepted condition and it is not responsible for the current condition. On October 21, 2005, the insurer issued a denial of claimant's current condition.

Claimant requested a hearing regarding the October 21, 2005 denial of claimant's medical services claim for her current condition (the claim on which her "worsening" claim was based). (WCB Case No. 05-07020). As a result of claimant's hearing request, we deferred action on the Own Motion "claim reopening" matter. Subsequently, claimant withdrew her request for hearing. On January 5, 2006, an Administrative Law Judge (ALJ) issued an Order of Dismissal. That order has not been appealed and has become final.

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.<sup>1</sup> See WCB Admin. Order No. 3-2005, eff. 01/01/2006; OAR 438-012-0001(2)(a), (3).

Here, claimant's worsened condition claim was based on her medical services claim for her current right wrist condition. Because of claimant's withdrawal of her request for hearing 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.

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<sup>1</sup> Although claim processing regarding claimant's "worsened condition" began under the previous statutes and rules, the Own Motion "claim reopening" matter had not become final prior to January 1, 2006, and the claim existed on or after that date. Therefore, the amendments to ORS 656.267 apply to claimant's "claim reopening" request. HB 2294 § 4; *Taylor*, 58 Van Natta at 76.

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

Accordingly, this Own Motion matter is dismissed.<sup>2</sup>

IT IS SO ORDERED.

Entered at Salem, Oregon on March 3, 2006

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<sup>2</sup> Finally, inasmuch as claimant is unrepresented, she may wish to consult the Workers' Compensation Ombudsman, whose job it is to assist injured workers in such matters. She may contact the Workers' Compensation Ombudsman, free of charge, at 1-800-927-1271, or write to:

WORKERS' COMPENSATION OMBUDSMAN  
DEPT OF CONSUMER & BUSINESS SERVICES  
PO BOX 14480  
SALEM, OR 97309-0405