
In the Matter of the Compensation of
JUDITH LONG, Claimant
Own Motion No. 06-0018M
OWN MOTION ORDER REVIEWING CARRIER CLOSURE
Strooband & Ousey PC,
Johnson Nyburg & Andersen

Reviewing Panel: Members Lowell and Kasubhai.

Claimant requests review of the December 29, 2005, as corrected on January 10, 2006, Notice of Closure that did not award permanent disability resulting from her “worsened condition” claim. Claimant seeks review of the closure, requesting a permanent disability determination. We affirm the Notice of Closure.¹

FINDINGS OF FACT

Claimant sustained a compensable injury on December 1, 1997. The insurer accepted overuse syndrome right wrist and right carpal tunnel syndrome. (Exs. 5, 9). Claimant’s aggravation rights expired on December 1, 2002.

On December 10, 2004, we authorized the reopening of claimant’s 1997 claim for a “worsened” condition. ORS 656.278(1)(a). (Ex. 27).

In December 2005, claimant’s condition was determined to be medically stationary. (Ex. 32). The insurer issued an Own Motion Notice of Closure on December 29, 2005, as corrected on January 10, 2006, awarding temporary disability, but no additional permanent disability. (Exs. 33, 35). Claimant requested Board review.

CONCLUSIONS OF LAW AND OPINION

When a claim has been reopened pursuant to our Own Motion authority for a “worsened condition” under ORS 656.278(1)(a), the subsequent closure of that claim pertains only to the reopened “worsened condition” claim.

¹ Claimant’s December 1, 1997 claim was accepted as a nondisabling claim. Thus, claimant’s aggravation rights expired on December 1, 2002. Therefore, when claimant sought claim reopening in August 2003, the claim was within our Own Motion jurisdiction. ORS 656.278(1) (2001). Consistent with our statutory authority, on December 10, 2004, we issued our Own Motion Order authorizing the reopening of the claim and noted that when claimant was medically stationary, the insurer should close the claim pursuant to OAR 438-012-0055. (WCB Case No. 04-0174M). On December 29, 2005, as corrected on January 10, 2006, the insurer issued its Notice of Closure.

Dennis D. Kessel, 55 Van Natta 3651 (2003); *Clayton L. Sutherland*, 55 Van Natta 2694 (2003); *Ginney E. Etherton*, 55 Van Natta 2216 (2003).

Here, the claim was reopened for a “worsened condition” that was in Own Motion status. See ORS 656.278(1)(a). Accordingly, the insurer’s December 29, 2005, as corrected on January 10, 2006, Notice of Closure pertained only to the claim for a “worsened condition.” See *Ginny E. Etherton*, 55 Van Natta at 2217.

There is no indication that claimant initiated a new or omitted medical condition claim. In any event, the insurer neither voluntarily reopened the claim for a “post-aggravation rights” new or omitted medical condition nor submitted a Carrier’s Own Motion Recommendation for or against reopening such a claim. In the absence of such events, the Notice of Closure is limited to the “worsening” claim that was reopened on December 10, 2004. *Arvin D. Lal*, 55 Van Natta 816 (2003).

Finally, because the claim was reopened for a worsened condition that was in Own Motion status, claimant is not statutorily entitled to a permanent disability award. See *Goddard v. Liberty Northwest Ins. Corp.*, 193 Or App 238 (2004); *Jimmy O. Dougan*, 54 Van Natta 1213, *on recon* 54 Van Natta 1552 (2002), *aff’d* *Dougan v. SAIF*, 193 Or App 767 (2004), *vacated* 339 Or 1 (2005).²

Accordingly, we affirm the December 29, 2005, as corrected on January 10, 2006, Notices of Closure.

IT IS SO ORDERED.

Entered at Salem, Oregon on March 8, 2006

² On review, the *Dougan* Court vacated the Court of Appeals decision and dismissed the claimant’s petition for review, finding that, pursuant to ORS 656.278(4), a claimant is not entitled to judicial review of an Own Motion order that does not diminish or terminate a former award.