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In the Matter of the Compensation of  
**STEPHEN L. AUSMUS, Claimant**  
Own Motion No. 04-0326M  
OWN MOTION ORDER OF DISMISSAL  
Unrepresented Claimant  
Julie Masters, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

The SAIF Corporation submitted claimant's request for claim reopening for a worsening of his previously accepted lumbar condition ("lumbosacral strain"). See ORS 656.278(1)(a). Claimant's aggravation rights have expired. SAIF submitted a "Carrier's Own Motion Recommendation" against reopening, contending that, among other issues, claimant's "worsened condition" is not causally related to the accepted condition.

Claimant requested a hearing on that denial. (WCB Case No. 04-07581). As a result of claimant's hearing request, we deferred action on the Own Motion "claim reopening" matter. On March 29, 2006, an Administrative Law Judge (ALJ) issued an order that upheld SAIF's denial. Claimant requested Board review of that order. On today's date, we have issued an order that affirmed the ALJ's order.

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 OAR 438-012-0001 (2)(a), (3).

Here, claimant's worsened condition claim was based on his current low back condition. As a result of the ALJ's order that upheld SAIF's compensability denial regarding that claim and our resulting order affirming the ALJ's order, the basis of claimant's worsened condition claim; *i.e.*, his current condition, 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. House Bill 2294 § 4; *Taylor*, 58 Van Natta at 76.

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 October 12, 2006