
In the Matter of the Compensation of
MELVIN R. JOHNSON, Claimant
Own Motion No. 07-0011M
INTERIM OWN MOTION ORDER POSTPONING ACTION ON REVIEW OF
CARRIER CLOSURE
Westmoreland & Mundorff, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Biehl and Lowell.

Claimant requests review of a December 22, 2006 Notice of Closure that awarded an additional 12 percent (38.4 degrees) unscheduled permanent disability for the low back and 7 percent (10.5 degrees) scheduled permanent disability for the right leg for his “post-aggravation rights” new/omitted medical conditions (“bilateral L5-S1 spondylolysis, bilateral pars interarticularis defect”). On review, claimant contends that he is entitled to an increased permanent disability award. Claimant also seeks the appointment of a medical arbiter.

FINDINGS OF FACT

On July 31, 1985, claimant sustained a compensable low back injury. Claimant’s aggravation rights expired on September 15, 1992. ORS 656.273.

On October 20, 2006, the SAIF Corporation voluntarily reopened claimant’s Own Motion claim for “post-aggravation rights” new medical conditions (“bilateral L5-S1 spondylolysis, bilateral pars interarticularis defect”). ORS 656.278(1)(b), (5).

A December 22, 2006 Own Motion Notice of Closure awarded 12 percent (38.4 degrees) unscheduled permanent disability for the low back and 7 percent (10.5 degrees) scheduled permanent disability for the right leg for his “post-aggravation rights” new/omitted medical conditions (“bilateral L5-S1 spondylolysis, bilateral pars interarticularis defect”).

Claimant has requested review of the December 2006 Notice of Closure. Claimant asserts entitlement to additional PPD. In addition, he seeks the appointment of a medical arbiter.

CONCLUSIONS OF LAW AND OPINION

Claimant requests review of SAIF's claim closure based on his disagreement with the impairment findings used to rate his disability. In addition, he requests the 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 conditions ("bilateral L5-S1 spondylolysis, bilateral pars interarticularis defect"), the only conditions for which claimant is presently entitled to a rating of PPD benefits under ORS 656.278(1)(b) and ORS 656.278(2)(d).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, the arbiter's report has on claimant's request for review of the closure notice. After completion of that schedule, we will proceed with our review.

IT IS SO ORDERED.

Entered at Salem, Oregon on February 15, 2007

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.