
In the Matter of the Compensation of
HEATHER R. FOLK, Claimant
Own Motion No. 05-0353M
OWN MOTION ORDER OF DISMISSAL
Glen J Lasken AAL, Claimant Attorneys
James B Northrop, SAIF Legal Salem, Defense Attorneys
Law Offices Of Robert S Dorband, Defense Attorneys

Reviewing Panel: Members Lowell and Kasubhai

The SAIF Corporation submitted a “Carrier’s Own Motion Recommendation” against claim reopening for a worsening of claimant’s previously accepted low back condition. *See* ORS 656.278(1)(a). Claimant’s aggravation rights have expired. SAIF’s Own Motion Recommendation contends that claimant’s current condition was not causally related to the accepted conditions and it was not responsible for the current condition. Consistent with that position, SAIF issued a denial of claimant’s current low back condition. (Ex. 35).

Claimant requested a hearing regarding SAIF’s denial. (WCB Case No. 05-06857). As a result of claimant’s hearing request, we deferred action on the Own Motion “claim reopening” matter. On September 15, 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.¹ *See* OAR 438-012-0001(2)(a), (3).

Here, claimant’s worsened condition claim was based on her 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.*, her current condition, has not been determined to be compensable.

¹ 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 January 24, 2007