

In the Matter of the Compensation of
HALLIE E. HOLLAND, Claimant
Own Motion No. 08-0177M
OWN MOTION ORDER
Unrepresented Claimant
Continental Casualty Co, Carrier

Reviewing Panel: Members Langer and Weddell.

The insurer has submitted a “Carrier’s Own Motion Recommendation,” indicating that claimant requests that it reopen his 1993 injury claim for a “worsening” of his previously accepted thoracic conditions. *See* ORS 656.278(1)(a). The insurer recommends against reopening the claim. Based on the following reasoning, we authorize the reopening of claimant’s “worsened condition” claim.

FINDINGS OF FACT

Claimant sustained a compensable injury on December 20, 1993. The insurer accepted disabling T-2 fractures and facial lacerations. His aggravation rights have expired.

On September 22, 2008, claimant sought treatment with Dr. Moore. Diagnosing a large “left greater trochanteric pressure ulcer, stage 3,” Dr. Moore referred claimant to Dr. Meeks. Dr. Moore also released claimant from work and completed claimant’s “Application to Reopen Claim” form. In that form, Dr. Moore noted that claimant’s current condition prevented him from working beginning September 22, 2008. In the “employment section,” claimant reported that he was working at a bank for three years.

On September 23, 2008, claimant was examined by Dr. Meeks, who recommended “operative debridement and placement of a wound vac.” He also noted that claimant was employed at a bank.

On October 8, 2008, Dr. Moore reported that claimant had been hospitalized on October 7, 2008 with a fever and a stage IV left greater trochanteric decubitus ulcer. Dr. Moore also noted that claimant was undergoing surgery with Dr. George on that day.

On November 10, 2008, claimant was discharged from the hospital. His medical care was transferred to a home health care agency.

CONCLUSIONS OF LAW AND OPINION

Pursuant to ORS 656.278(1)(a), there are three requirements for the reopening of an Own Motion claim for a worsening of a compensable injury. First, the worsening must result in the partial or total inability of the worker to work. Second, the worsening must require hospitalization, surgery (either inpatient or outpatient), or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the worker to return to work. Third, the worker must be in the work force at the time of disability as defined under the criteria in *Dawkins v. Pacific Motor Trucking*, 308 Or 254 (1989). *James J. Kemp*, 54 Van Natta 491 (2002). If a claimant meets these requirements, his or her Own Motion claim qualifies for reopening either by the Board or the carrier.

Here, claimant meets all the requisite criteria. On September 22, 2008, Dr. Moore released him from work due to a worsening of his previously accepted condition. On October 7, 2008, claimant was hospitalized and, the following day, he underwent surgery. Thus, claimant meets the first two “claim reopening” requirements. In other words, the record establishes that his previously accepted conditions worsened requiring hospitalization/surgery and resulted in an inability to work.

Furthermore, we are persuaded that claimant was is in the work force. Claimant reported that he has been employed with a bank for 3 years. Drs. Meeks’ and Moore’s observations support claimant’s assertions.

Claimant’s employment history and the references regarding his current work activities in Drs. Meeks’ and Moore’s report are not rebutted. Under such circumstances, we are persuaded that claimant meets the criteria necessary for his claim to be reopened. *See Mark Evoniuk*, 57 Van Natta 1245 (2005) (the claimant was found to be in the work force at the time of his current disability based on work references incorporated in the record); *Larry Gibson*, 55 Van Natta 3866 (2003) (same); *John R. Kennedy*, 50 Van Natta 837 (1998) (same).

Accordingly, we authorize the reopening of the claim for the insurer to process the claim in accordance with law. ORS 656.278(1)(a). When claimant’s

condition is medically stationary, the insurer shall close the claim pursuant to OAR 438-012-0055.¹

IT IS SO ORDERED.

Entered at Salem, Oregon on December 29, 2008

¹ Finally, inasmuch as claimant is unrepresented, he may wish to consult the Workers' Compensation Ombudsman, whose job it is to assist injured workers. He 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