

In the Matter of the Compensation of
JANEAN M. FOSSUM, Claimant

Own Motion No. 08-0062M

OWN MOTION ORDER

Cary et al, Claimant Attorneys

Liberty NW Ins Corp, Carrier

Reviewing Panel: Members Weddell and Langer.

The insurer has submitted claimant's request for reopening of her Own Motion claim for a worsened condition. ORS 656.278(1)(a). Claimant's aggravation rights have expired. The insurer recommends reopening of claimant's 1998 claim under ORS 656.278(1)(a).

Based on the record, we are persuaded that claimant meets the criteria necessary for her claim to be reopened for a "worsening" of her previously accepted shoulder conditions ("right shoulder strain with rotator cuff tendonitis and impingement"). ORS 656.278(1)(a); *Robert A. Boehm, Jr.*, 58 Van Natta 168 (2006). Accordingly, we authorize the reopening of the claim for the insurer to process in accordance with law. When claimant's condition is medically stationary, the insurer shall close the claim pursuant to OAR 438-012-0055.¹

Claimant's attorney is allowed an approved fee in the amount of 25 percent of any increased temporary disability compensation resulting from this order, not to exceed \$1,500, payable by the insurer directly to claimant's attorney.

IT IS SO ORDERED.

Entered at Salem, Oregon on May 23, 2008

¹ In its letter accompanying its recommendation, the insurer represents that this reopening includes surgical intervention or curative treatment and the payment of temporary disability benefits for the "worsened" condition. However, the sole issue before us is whether claimant's "worsened" condition claim should be reopened. Based on the above reasoning, we have determined that the claim should be reopened. In reaching that conclusion, we have not addressed claimant's entitlement to any temporary disability benefits which may arise from this reopening. Instead, such issues are claim processing matters that may later arise and are the insurer's responsibility in the first instance.

If claimant subsequently disagrees with the insurer's future processing of the claim (for example, if the insurer declines to pay temporary disability benefits and claimant disagrees with such an action), she may raise her concerns with the Board at that time.