
In the Matter of the Compensation of
DORIS M. EDWARDS, Claimant
Own Motion No. 09-0149M
OWN MOTION ORDER REVIEWING CARRIER CLOSURE
Unrepresented Claimant
Hartford Underwriters Ins Co, Carrier

Reviewing Panel: Members Langer and Weddell.

Claimant, *pro se*, requests review of the October 13 and October 20, 2009 Notices of Closure that did not award permanent disability resulting from her “worsened condition” claim for right shoulder conditions.¹ Asserting that her right shoulder continues to hurt and that it “probably always will,” claimant seeks “some kind [of] compensation.” We affirm the Notice of Closure.

FINDINGS OF FACT

Claimant sustained a compensable right shoulder injury on June 6, 1999. Her aggravation rights have expired.

On January 21, 2009, claimant underwent right shoulder surgery. On May 4, 2009, while noting that claimant had some mild partial impairment with loss of motion and mild loss of strength, Dr. Sandefur, claimant’s attending physician, declared her right shoulder conditions medically stationary.

On October 7, 2009, the insurer voluntarily reopened the claim for a “worsened condition” (“right shoulder impingement syndrome”). ORS 656.278(1)(a); ORS 656.278(5). The insurer issued Own Motion Notices of Closure on October 13 and October 20, 2009, that did not award additional permanent disability. Claimant requested Board review.

¹ Claimant’s June 6, 1999 was accepted as a disabling claim and was first closed on February 12, 2001. Thus, claimant’s aggravation rights expired on February 12, 2006. Therefore, when claimant sought claim reopening in December 2008, the claim was within our Own Motion jurisdiction. ORS 656.278(1). On October 7, 2009, the insurer voluntarily reopened claimant’s Own Motion claim for a “worsened condition.” ORS 656.278(1)(a), (5). On October 13 and October 20, 2009, the insurer issued its Notices of Closure.

CONCLUSIONS OF LAW AND OPINION

In requesting Board review, claimant contends that her right shoulder continues to hurt and “probably always will.” Consequently, she seeks “some kind [of] compensation.” We interpret claimant’s position as a request for an increased award of permanent disability. Based on the following reasoning, we are not statutorily authorized to grant her request.

When a claim has been reopened pursuant to our Own Motion authority for a “worsened condition” under ORS 656.278(1)(a), the subsequent closure of that claim pertains only to the reopened “worsened condition” claim. *Dennis D. Kessel*, 55 Van Natta 3651 (2003); *Clayton L. Sutherland*, 55 Van Natta 2694 (2003); *Ginney E. Etherton*, 55 Van Natta 2216 (2003).

Here, the claim was voluntarily reopened for a “worsened condition” that was in Own Motion status. *See* ORS 656.278(1)(a). Accordingly, the insurer’s October 13 and October 20, 2009 Notices of Closure pertained only to the claim for a “worsened condition.” *See Etherton*, 55 Van Natta at 2217.

There is no indication that claimant initiated a new or omitted medical condition claim.² In any event, the insurer neither voluntarily reopened the claim for a “post-aggravation rights” new or omitted medical condition nor submitted a Carrier’s Own Motion Recommendation for or against reopening such a claim. In the absence of such events, the Notices of Closure are limited to the “worsening” claim that was voluntarily reopened on October 7, 2009. *Arvin D. Lal*, 55 Van Natta 816 (2003).

Because the claim was reopened for a worsened condition that was in Own Motion status, claimant is not statutorily entitled to a permanent disability award. *See Goddard v. Liberty Northwest Ins. Corp.*, 193 Or App 238 (2004). Consequently, we are not authorized to award permanent disability based on claimant’s “worsened condition” claim.

² The record contains references to some unaccepted conditions, *e.g.*, “right rotator cuff tear and right shoulder adhesive capsulitis.” Nonetheless, claimant has apparently not filed a “post-aggravation rights” new medical condition claim. Thus, any consideration of “unclaimed” conditions would be premature. *See* ORS 656.267(3); ORS 656.278(1)(b). Instead, our decision is limited to a review of claimant’s worsening claim for her previously accepted right shoulder and wrist conditions (“right lateral epicondylitis, right wrist carpal tunnel syndrome, right shoulder impingement syndrome”).

If claimant wishes to initiate a new or omitted medical condition claim, she may request formal written acceptance of the claim from the insurer. ORS 656.267(1). If the insurer receives such a claim, and the claim is “determined to be compensable,” it must be processed according to the Board’s rules. *See* OAR 438-012-0001(4); OAR 438-012-0030(1); *James W. Jordan*, 58 Van Natta 34, 37 (2006).

Accordingly, we affirm the October 13 and October 20, 2009 Notices of Closure.³

IT IS SO ORDERED.

Entered at Salem, Oregon on December 7, 2009

³ Finally, inasmuch as claimant is unrepresented, she may wish to consult the Ombudsman for Injured Workers, whose job it is to assist injured workers. She may contact the Ombudsman, free of charge, at 1-800-927-1271, or write to:

OMBUDSMAN FOR INJURED WORKERS
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM, OR 97309-0405