
In the Matter of the Compensation of
CONNIE J. MOSIER, Claimant
WCB Case No. 08-06260
ORDER ON REVIEW
Unrepresented Claimant
Bruce A Bornholdt, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Langer and Biehl.

Claimant, *pro se*, requests review of Administrative Law Judge (ALJ) Rissberger's order that upheld the SAIF Corporation's denials of claimant's new/omitted medical condition claims for multiple right lower extremity conditions. With her brief, claimant submits copies of documents that were not admitted into the record at hearing.¹ We treat the submissions as a motion for remand to the ALJ for further evidence taking. *Juan H. Mendez*, 60 Van Natta 3150 (2008). On review, the issues are remand and compensability.²

We adopt and affirm the ALJ's order with the following supplementation regarding the motion for remand.³

¹ These documents include insurance claim forms dated July 21, 1986, January 6, 1987, January 19, 1987, and November 11, 1995; a chart note dated December 9, 1987; a September 19, 2001 letter from SAIF to Orthopedic Radiology, PC; an October 10, 2001 letter from SAIF to claimant; a two-page document entitled "History of Senate Bill 311 and Summary of IME Changes"; and a September 28, 2010 letter from SAIF to the Board. We consider those documents that were not admitted at hearing only for the purpose of determining whether remand is appropriate. The additional documents submitted with claimant's brief were admitted into evidence at hearing and we have considered them on review. (*See Exs. A, 16, 17C, 32, 35B-6*).

² 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:

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

³ We replace the last full sentence on page 5 with:

"Dr. Baldwin, an orthopedic surgeon, examined claimant on December 4, 2008 at SAIF's request. His opinion supports a conclusion that claimant does not have patellofemoral pain syndrome or retropatellar pain syndrome. (*See Ex. 35B-19-20*)."

Our review is limited to the record developed by the ALJ. We may remand to the ALJ if we find that the case has been “improperly, incompletely or otherwise insufficiently developed[.]” ORS 656.295(5). There must be a compelling reason for remand to the ALJ for the taking of additional evidence. *SAIF v. Avery*, 167 Or App 327, 333 (2000). A compelling reason exists when the new evidence (1) concerns disability; (2) was not obtainable at the time of the hearing; and (3) is reasonably likely to affect the outcome of the case. *Id.*; *Compton v. Weyerhaeuser Co.*, 301 Or 641, 646 (1986).

In this case, claimant has not explained why the documents submitted for the first time on Board review were not presented at the hearing.⁴ *Steven T. Griggs*, 56 Van Natta 2991 (2004) (remand not warranted because, although exhibits were unavailable at the time of hearing, the claimant had not shown that the information in the exhibits was unobtainable with the exercise of due diligence). Thus, we are unable to find that the proposed evidence was unobtainable at the time of the hearing.

We also find that the proposed documentary evidence would not support a conclusion that claimant has the claimed conditions or that any such conditions are compensably related to the 1986 injury. Under these circumstances, the proposed documentary evidence would not be reasonably likely to affect the outcome of the case. Accordingly, because we find no compelling reason to remand to the ALJ, we deny the motion for remand.

ORDER

The ALJ’s order dated August 2, 2010 is affirmed.

Entered at Salem, Oregon on January 20, 2011

⁴ Claimant argues that SAIF did not follow proper procedures before and after Dr. Baldwin’s examination. She seeks a worker requested medical examination (WRME) as a remedy for these alleged procedural improprieties. Because she does not explain why she did not raise these concerns at hearing, we do not find a compelling reason to remand for scheduling of a WRME. See *Marlon Bolanos-Guzman*, 59 Van Natta 2690 (2007).