
In the Matter of the Compensation of
EDWIN C. MEYERS, Claimant
WCB Case No. 11-00777, 11-00776
ORDER ON REVIEW
Dale C Johnson, Claimant Attorneys
Judy L Johnson, Defense Attorneys

Reviewing Panel: Members Langer, Weddell, and Herman.

Claimant requests review of Administrative Law Judge (ALJ) Marshall's order that: (1) dismissed claimant's hearing request regarding the insurer's denial of his new/omitted medical condition claim for an L5-S1 disc; and (2) declined to reopen the record and reconsider the dismissal order. On review, the issues are the ALJ's evidentiary ruling and, potentially, the propriety of the ALJ's dismissal order.

We adopt and affirm the ALJ's order with the following supplementation.

On review, claimant contends that the ALJ did not provide a reasoned explanation for denying his request for reconsideration under OAR 438-007-0025. That rule provides that an ALJ may reopen the record and reconsider a decision before a request for review is filed or, if none is filed, before the time for requesting review expires. OAR 438-007-0025(1). Reconsideration may be upon the ALJ's own motion or a party's motion showing error, omission, misconstruction of an applicable statute or the discovery of new material evidence. *Id.* Our review of an ALJ's ruling under this rule is for an abuse of discretion. *Jeffrey C. Bach*, 61 Van Natta 477, 481 (2009).

After conducting our review, we find that the ALJ provided substantial reasoning for his decision to deny claimant's motion for reinstatement of his hearing request and to adhere to his dismissal order.¹ Likewise, considering claimant's initial unequivocal withdrawal of his hearing request, we find no abuse of discretion in the ALJ's ruling.

ORDER

The ALJ's order dated May 13, 2011, as reconsidered October 27, 2011, is affirmed.

Entered at Salem, Oregon on April 23, 2012

¹ In reaching this conclusion, we disagree with claimant's argument that the ALJ's order is defective merely because it neglected to include a citation to OAR 438-007-0025. Notwithstanding a specific reference to the rule, the ALJ's order includes an extensive analysis of the circumstances surrounding claimant's motion for reinstatement of his hearing request, the competing principles, available regulatory analogies, and the reasons for his ruling.