

In the Matter of the Compensation of
ROYCE L. BROWN, SR., Claimant

WCB Case No. 11-02146

ORDER ON REVIEW

L Leslie Bush, Claimant Attorneys
James B Northrop, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Lowell and Weddell. Member Weddell concurs.

Claimant requests review of Administrative Law Judge (ALJ) Kekauoha's order that upheld the SAIF Corporation's "ceases" denial of his combined low back condition. On review, the issue is compensability.

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

In upholding SAIF's denial, the ALJ determined that SAIF satisfied its burden of proving that the lumbar strain component of a combined condition was no longer the major contributing cause of the disability or need for treatment for the combined condition. *See* ORS 656.262(6)(c). In making this determination, the ALJ relied on medical evidence indicating that the accepted lumbar strain had resolved.

On review, claimant argues that he sustained a "complex" strain condition and that, under such circumstances, the otherwise compensable injury should be considered to be the combined lumbar strain and preexisting degenerative disease. He asserts that, under this definition, the otherwise compensable injury remains the major contributing cause of the disability or need for treatment. For the following reasons, we disagree with claimant's proposed analysis of the compensability of the combined condition.

In *Gary D. Sather*, 63 Van Natta 1727 (2011), the claimant argued that the resolution of his accepted lumbar strain was irrelevant with respect to whether the carrier's "combined condition" denial should be upheld. The claimant contended that his "otherwise compensable injury" remained the major contributing cause of his disability/need for treatment, even though his "accepted" injury condition was not the major contributing cause of such disability/need for treatment.

We disagreed, explaining that the claimant's argument was inconsistent with case precedent that focused on whether the carrier had established that the accepted "otherwise compensable" condition was not the major contributing cause of the

disability/need for treatment of the accepted combined condition. *Id.* at 1728. We cited *Reid v. SAIF*, 241 Or App 496, 503, *rev den*, 351 Or 216 (2011), where the court affirmed our approach, holding that in determining the propriety of a combined condition denial, “it is correct * * * to focus on the compensable injury that was shown to have combined with the preexisting condition, and on the actual combined condition that was accepted and then denied.”

In *Sather*, the only “compensable injury” that was shown to have combined with the claimant’s “preexisting conditions” was the accepted lumbar strain. Because the lumbar strain was no longer the major contributing cause of the disability/need for treatment for the combined condition, we upheld the carrier’s denial. See *Ray Murdock*, 63 Van Natta 2411 (2011) (upholding combined condition denial where the carrier established that the accepted cervical strain was no longer the major contributing cause of the combined condition).

Likewise, in this case, we agree with the ALJ’s reasoning that the accepted lumbar strain was no longer the major contributing cause of the disability or need for treatment of the combined condition. Thus, we affirm.

ORDER

The ALJ’s order dated November 3, 2011 is affirmed.

Entered at Salem, Oregon on June 12, 2012

Member Weddell concurring.

This case involves an industrial accident occurring on December 14, 2008. Claimant experienced a sudden, burning, sharp pain in his low back, along with right radicular leg pain. He went to the emergency room the next day. On December 31, 2008, SAIF issued a Notice of Acceptance, listing “lumbar strain” as the accepted condition. On September 4, 2009, SAIF issued a Notice of Closure that closed the claim without a permanent disability award.

In January 2010, believing that the work incident had caused greater injury than a simple lumbar strain, claimant requested acceptance of a lumbar strain combined with lumbar disc disease and spondylolisthesis. That expansion claim was denied by SAIF on February 19, 2010. Claimant appealed the denial and the denial was set aside. Thereafter, SAIF issued a Modified Notice of Acceptance on December 22, 2010, listing the accepted conditions as “lumbar strain combined with lumbar disc disease and spondylolisthesis.”

On April 28, 2011, SAIF denied claimant's current combined condition *as of August 19, 2009*, on the basis that the accepted injury had ceased to be the major contributing cause of the combined condition. Claimant requested a hearing, and the ALJ upheld SAIF's denial, relying in part on Board cases that have interpreted the court's decision in *Reid v. SAIF*, 241 Or App 496, 503, *rev den*, 351 Or 216 (2011), to mean that the "otherwise compensable injury" of ORS 656.005(7)(a)(B) means only an "accepted condition."

I agree that, under current precedent, SAIF's denial should be upheld. I write further because I believe that such precedent has resulted in outcomes inconsistent with the workers' compensation statutory scheme, as intended by the legislature. Specifically, for the reasons set forth below, I do not agree that the legislature ever intended for the phrase "compensable injury" to be synonymous with only an "accepted condition" under ORS 656.005(7)(a)(B), and *Reid*, 241 Or App at 503, or ORS 656.245(1)(a), and *SAIF v. Swartz*, 247 Or App 515, 522-23 (2011).¹

Under ORS 656.005(7), "[a] 'compensable injury' is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death * * *." The courts have long interpreted the "arising out of" phrasing as meaning a "material contributing cause." *See Knaggs v. Allegheny Technologies*, 223 Or App 91, 95-96 (2008) (and cases cited therein).

Thus, generally speaking, a claimant has a "compensable injury" so long as "the work or labor being performed * * * is a material, contributing cause [that] leads to the unfortunate result." *Id.* at 95.

However,

"[i]f an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition

¹ Although this dispute concerns only ORS 656.005(7)(a)(B), the court has held that, under that statute and ORS 656.245(1)(a), "compensable injury" means *only* a condition formally "accepted for coverage by the insurer or employer." *See Swartz*, 247 Or App at 522-23; *see also Reid*, 241 Or App at 503. Moreover, as detailed below, the statute provides only one definition for "compensable injury" and does not otherwise indicate a different meaning should be applied. *See ORS 656.005(7)*; *see also SAIF v. Sprague*, 346 Or 661, 665 (2009); *Errand v. Cascade Steel Rolling Mills*, 320 Or 509, 517 (1995). Therefore, I find it prudent to discuss the evolving case law concerning the term "compensable injury" beyond that of ORS 656.005(7)(a)(B).

is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.” ORS 656.005(7)(a)(B).

For the purpose of combined condition injury claims under that statute, “[o]nce the worker establishes an otherwise compensable injury, the [carrier] shall bear the burden of proof to establish the otherwise compensable injury is not, or is no longer, the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.” ORS 656.266(2). Thus, when a carrier denies a claim on the basis that the “otherwise compensable injury” is not the major contributing cause of a claimant’s disability/need for treatment of a combined condition, it is necessary to determine the contribution of the “compensable injury” to the disability/need for treatment of the combined condition.

Consequently, for purposes of ORS 656.005(7)(a)(B), it would appear evident that a carrier’s denial of a combined condition claim may only be upheld if the carrier has proven that the accidental injury that “[arose] out of and in the course of employment” is not the major contributing cause of the disability/need for treatment of the combined condition. Likewise, ORS 656.262(6)(c) provides that once a combined condition is accepted, a carrier is not precluded from later denying such a condition “if the otherwise compensable injury ceases to be the major contributing cause of the combined * * * condition.”² Noticeably absent from those statutory requirements is any reference to an “accepted condition,” or the allowance of a carrier to issue a “ceases” denial, so long as the “otherwise compensable injury” remains the major contributing cause of a combined condition.³ Indeed, it was not until 1990 that carriers were required to even list what conditions were being accepted in a notice of acceptance. *See* ORS 656.262 (Or Laws 1990, ch 2, §15).

² ORS 656.262(6)(c) also applies to “consequential conditions.”

³ The phrase “accepted condition” appears only three times in Chapter 656 (ORS 656.268(1)(b), ORS 656.268(15), ORS 656.704(3)(b)(B)), and does not appear in ORS 656.245(1)(a) or ORS 656.005(7)(a)(B); the phrase “compensable injury” occurs 46 times, including both ORS 656.245(1)(a) and ORS 656.005(7)(a)(B). The phrase “accepted condition” is not defined in the statute, whereas the phrase “compensable injury” is defined in ORS 656.005(7)(a).

Conceivably, one might presume that this additional requirement of specifying accepted conditions modified the definition of a “compensable injury.” However, neither at the time of that statutory amendment nor any time thereafter, was the definition of “compensable injury” in ORS 656.005(7)(a) modified.

Likewise, the legislative history does not indicate an intent to change the definition of “compensable injury” to “accepted condition,” or to deem the “accepted condition” as dispositive in ORS 656.005(7)(a)(B) and ORS 656.245(1)(a) matters. *See State v. Gaines*, 346 Or 160, 166, 171-73, (2009) (in interpreting statutes, the intentions of the legislature are ascertained by examining the text of the statute in its context, along with any relevant legislative history, and, if necessary, relevant canons of statutory construction). To the contrary, that history evinces a legislative intent to continue the understanding that “compensable injury” would mean the *workplace event* that resulted in a medical services or disability/death. I offer the following summary of that history.

In 1990, ORS 656.005(7)(a)(B) was amended to establish a heightened standard of proof (the major contributing cause standard) where a “compensable injury combine[d] with a preexisting disease or condition to cause or prolong disability or a need for treatment.” *See* 1990 Or Laws, ch 2, §3.⁴ Mr. Keene, a workers’ compensation defense attorney, testified as someone knowledgeable about the drafting of the language that was ultimately enacted. Tape Recording, Special Committee on Workers’ Compensation, May 3, 1990, Tape 8, Side B. He emphasized that the amendments did not change “the basic industrial injury definition,” and that the amendments were only designed “to attack conditions that * * * were there before the injury and things that were coming in after.”⁵ *Id.* Relevant to the “combined condition” issue, he explained that the language “left the actual on-site episode untouched * * *.” *Id.*

In 1995, ORS 656.005(7)(a)(B) was amended to reflect the currently applicable language. *See* Or Laws ch 332, § 1. Representative Mannix, who cosponsored the bill,⁶ explained that the purpose of the amendments were to reinforce some of the changes made in the 1990 amendments. Tape Recording,

⁴ At the time, the statute used the phrase “resultant condition” as opposed to “combined condition.”

⁵ The amendments also provided a heightened standard for a “consequential condition.”

⁶ Tape Recording, Senate Labor and Government Operations, meeting jointly with House Labor, SB 396, January 30, 1995, Tape 15, Side A, Tape 38, Side A, Tape 39, Side A.

Senate Labor and Government Operations, meeting jointly with House Labor, SB 396, January 30, 1995, Tape 15, Side A (statement of Rep. Mannix).⁷ Specifically, Rep. Mannix clarified:

“In terms of the definition of a compensable injury, this section [1] states that the worker’s claim will be accepted if the *on-the-job injury* is the major contributing cause of the condition for which compensation is being claimed.” *Id.* (emphasis added).⁸

Rep. Mannix reiterated that a combined condition would be compensable so long as “*the injury incident*” was “the major contributing cause” of that condition. *Id.* (emphasis added). Throughout the legislative record, Rep. Mannix repeatedly emphasized that the phrase “otherwise compensable injury” as used in ORS 656.005(7)(a)(B) meant the “work injury,” “industrial injury,” “injury incident,” or the “work incident.” *See* Tape Recording, Tape 38, Side B, Tape 41, Side A. Nothing in that legislative history expresses that “compensable injury” would be limited to an “accepted condition,” or that an injured worker’s benefits would be negatively compromised by how a carrier elected to list what conditions were accepted.

Rather, that history establishes that a carrier’s newly-added requirement (as of 1990) to specify the conditions accepted was not intended to have *any* effect on a worker’s claim or benefits. Specifically, in response to a concern about a proposed amendment that would require injured workers to request that acceptance notices be modified, Rep. Mannix explained that requiring a carrier to specify accepted conditions was:

“designed in 1990 * ** for responsibility fights. I’m one of the people who supported putting it in. We wanted to know what was being accepted as part of this claim so it was documented, that was accepted. There used to be just a little box you would check on the 801. But what condition is being accepted? So if there is a later debate about the responsibility with a new injury later on, we know what was accepted.

⁷ All of the 1995 tape recording citations refer to the same meeting.

⁸ The legislative history largely uses the phrase “resultant condition” instead of “combined condition” because the latter phrase was not used until the hand-engrossed versions of the bill. *See* Tape Recording, Tape 63, Side A.

“But it has now turned into a new source of litigation. Get this. The employer/insurer pays the time loss, pays all the medical bills, pays the permanent disability award, and yet later on some attorney comes in and says, ‘Aha, the diagnosis was lumbosacral strain and lower thoracic strain and your notice of acceptance only said lumbosacral strain. Therefore, you *de facto*, as a matter of fact, denied the thoracic strain.’ But wait a minute, didn’t you get all your benefits paid, didn’t you get all your benefits? ‘Doesn’t matter. This is a denial because you didn’t accept.’ That’s what’s been happening lately.” Tape Recording, Tape 46, Side A.

Rep. Mannix continued to explain that the amendment to require a worker to request that a carrier modify the acceptance notice “is really not aimed so much at the worker as the attorney. I never saw, in my experience, *a worker ever complain about the notice of acceptance*, unless a bill wasn’t paid and then when the bill isn’t paid, that is a legitimate issue and [carriers] are supposed to issue a denial if they are refusing to pay a bill.” *Id.* (emphasis added).

Rep. Fahey suggested that the proposed omitted medical condition provision “looks like we are encouraging [workers] to go get an attorney or get another doctor to interpret [an] acceptance to add it to make sure they don’t get excluded from something that they don’t know anything about.” (*Id.*) Rep. Mannix responded:

“*The acceptance itself does not have any negative consequences for the worker. The negative consequences are if something is not paid. If later on there is an issue about whether or not there is a new injury, it is important to go back and see what was accepted on the claim.*” *Id.*

Rep. Mannix further stated that “the worker does not need to worry about [the accepted conditions on the notice of acceptance] unless the bill isn’t paid, and then [the worker will] pay a lot of attention and then [the worker will] probably go to an attorney anyway if the insurance company does not quickly straighten out the problems.” Tape Recording, Tape 45, Side B. The following exchange then took place:

“REP. FAHEY: So, you’re saying if [a condition is] not listed and the bills are being paid, there’s not a problem.

“REP. MANNIX: That’s my view.

“REP. FAHEY: Okay. That clears up that part, because I just wanted to make sure something wasn’t excluded.”

Id.

In sum, the legislative history unambiguously shows that: (1) the requirement that carriers specify accepted conditions in a notice of acceptance was directed to *responsibility* fights between carriers, and was not intended to have any negative consequences on injured workers; (2) the requirement that workers first contact a carrier about any omitted conditions was designed to permit carriers to correct an acceptance notice before having to pay attorney fees for a purported *de facto* denial of an unlisted condition; (3) there was no intention to change the definition of “compensable injury,” much less to equate a “compensable injury” with only an “accepted condition”; (4) “compensable injury,” as used in ORS 656.005(7)(a)(B) would continue to mean what it had always meant, *i.e.*, the “work injury/injury incident” that arose out of and in the course of employment and resulted in disability/need for treatment; and (5) the specifics of what conditions were formally accepted were only important to injured workers if a medical bill was not paid.

That history, however, is not reflected in current precedent, which elevates conditions that carriers elect to accept to a primacy never intended by the legislature. Under that precedent, an “accepted condition” forms the framework for all claim processing, medical services denials, “combined condition” denials, and ratings of permanent disability. In other words, the conditions that a carrier elects to initially accept has a profound (and often detrimental) effect on a worker’s claim.

As set forth above, however, that result is *directly contrary* to the legislative intent, which emphasized that the conditions accepted would only be of import to carriers, particularly concerning responsibility disputes. Although ORS 656.262(6)(d) and ORS 656.267(1) set forth a procedure by which a claimant *is permitted* to object to an acceptance notice, those statutes do not form an independent basis by which a carrier is permitted to deny claims under ORS 656.245 or ORS 656.005(7)(a)(B) based on what a carrier has elected to accept. To the contrary, as set forth above, the legislative history expressly rejected such

an interpretation of those statutes. In the absence of any legislative intent or enacted statutory language redefining “compensable injury” as *only* an “accepted condition,” I continue to maintain that a “compensable injury” for purposes of ORS 656.005(7)(a)(B) and ORS 656.245(1)(a) means precisely what is set forth in the statutory definition of that term in ORS 656.005(7)(a): namely, an accidental injury “arising out of and in the course of employment * * *.” See ORS 656.005(7)(a); see also *Cameron J. Horner*, 62 Van Natta 2094, 2096 (2010) (Members Biehl and Weddell, dissenting).

However, as set forth above, a majority of the Board and the court have reached a contrary conclusion. See *Reid*, 241 Or App at 503; *Swartz*, 247 Or App at 522-23; *Cameron J. Horner*, 62 Van Natta 2094 (2010), *aff’d per curiam*, 248 Or App 120 (2012). I would respectfully suggest, however, that the precedent does not satisfactorily explain why “compensable injury,” which has a *statutory definition* in ORS 656.005(7)(a) that makes *no mention of a “accepted condition,”* should be limited to *only* an accepted condition.⁹ Moreover, none of the cases has considered the legislative history set forth above, which indicates that “compensable injury” should continue to mean the *work event/industrial incident* arising out of and in the course of employment and requiring medical services or resulting in disability or death.

I also believe it is appropriate to inform the court of the consequential effects of that precedent, which appears to have evolved from factual determinations in specific cases to legal precedent binding in all cases.¹⁰ Specifically, I doubt that

⁹ Although ORS 656.262(6)(c) references a carrier’s “acceptance” of a combined condition, it reiterates that the denial must be based on “the otherwise compensable injury ceas[ing] to be the major contributing cause of the combined * * * condition.” Had the legislature intended to permit a carrier to issue a denial under ORS 656.005(7)(a)(B) and ORS 656.262(6)(c), it easily could have used the term “accepted condition” in place of “compensable injury.” The legislature, however, did not elect to use the term “accepted condition.” I would not replace the legislature’s use of the term “compensable injury” with “accepted condition,” particularly where, as here, the legislative history supports that there was no intention to alter the understanding of “compensable injury” as meaning the work event/industrial accident.

¹⁰ For example, in *SAIF v. Martinez*, 219 Or App 182, 191 (2008), which concerned a medical services dispute under ORS 656.245(1)(a), the court observed that “the condition for which treatment is sought need not be the accepted condition; however, the treatment must be necessitated in material part by the ‘compensable injury,’ which, we said in [*SAIF v.*] *Sprague*, [200 Or App 569, 572 (2005), *rev den*, 340 Or 157 (2006),] is the condition previously accepted.” In both *Sprague* and *Martinez*, however, there was no dispute concerning the scope of the injured workers’ respective “compensable injuries.” Thus, it was reasonable *in those cases* to treat the workers’ compensable injuries and accepted conditions as “coterminous.” See *Swartz*, 247 Or App at 525 n 6. It does not necessarily follow that a “compensable injury” is *always and only* an “accepted condition.”

the court envisioned what that precedent has wrought. Consider the following fact pattern as an example of purportedly appropriate claim processing under that precedent.

A worker is compensably injured on the job, requiring, for example, medical treatment for her wrist. The carrier accepts the claim, but accepts only the most minimal condition, *i.e.*, a “wrist contusion” or a “wrist strain.” The worker continues to experience pain or symptoms beyond that expected from the “accepted condition.” The treating medical experts believe that the work injury resulted in something more than the accepted condition, but they do not have a probable diagnosis and need to perform some diagnostic medical services to make that determination.

The worker requests that the carrier modify the acceptance notice to include an undiagnosed condition, which the experts believe the worker sustained as a result of the work event. The carrier, however, denies that new/omitted medical condition claim on the ground that the worker has not established the “existence” of the claimed “condition.” Because the worker’s treating physicians are unable to say, with a degree of medical probability, that the worker has a specific “condition,” the carrier prevails on its denial. *See Maureen Graves, 57 Van Natta 2380, 2381 (2005).*

The worker also requests that the carrier pay for the diagnostic medical service that the treating physicians say is necessary to assess (and treat) the worker’s wrist condition, which they believe was caused by the work injury. The carrier, however, denies the request for medical services, asserting that the claimed medical service is for an unaccepted condition that was not caused in material part by the “accepted condition.” Because the physicians do not believe that the worker’s current condition is associated with the “accepted condition” (typically a “strain”), the carrier’s medical services denial is also upheld.¹¹

¹¹ Consider even this simpler fact pattern. A worker falls from a roof and lands on her leg. The carrier accepts a contusion and laceration. A treating physician thinks that the claimant *may* have a fracture and orders an x-ray. The carrier refuses to pay for the x-ray, which shows that there is no fracture. Even though the carrier concedes that the x-ray was necessary to determine the extent of claimant’s work injury, its medical services denial is upheld because the x-ray was not caused in material part by the accepted contusion and laceration, but was only caused by the “work injury.” In that scenario, the worker is forced to pay the bill for the x-ray, which was undoubtedly performed because of the “compensable injury.”

Subsequently, the carrier, on its own, modifies its acceptance notice to accept a “combined condition,” for example, a wrist strain combined with preexisting degenerative arthritis. In that same acceptance notice, the carrier issues a “ceases” denial pursuant to ORS 656.005(7)(a)(B) and ORS 656.262(6)(c), and backdates the effective date of denial to several months earlier.

In support of its denial, the carrier secures a medical opinion from a non-treating physician asserting that the worker has such a combined condition, but that the accepted strain is not the major contributing cause of the need for treatment for that combined condition. The worker’s treating physicians do not dispute that the worker has an underlying preexisting arthritic condition that was aggravated by the work injury and that such a combining is part of why she needs treatment. They also agree that the “strain” has resolved and is not the major cause of the worker’s need for treatment; however, they also believe that the *work injury* resulted in something beyond the *accepted* “combined condition,” and that the *work injury* is the major contributing cause of the worker’s need for treatment for a combined condition (as well as other undiagnosed conditions). The medical opinion obtained by the carrier does not dispute that the “work injury” is the primary reason why the worker still needs treatment for a combined condition, but states that, with respect to the combined condition of the *accepted* strain/arthritis, the accepted strain condition has resolved.

The worker requests a hearing on the employer’s denial, arguing that there is effectively un rebutted evidence that her “compensable injury” is the major contributing cause of her ongoing need for treatment of a combined condition. The carrier’s denial is upheld, however, because claimant’s “compensable injury” is limited to the “accepted condition” of a strain, and the experts agree that the “strain” has resolved. The carrier closes the worker’s claim and the worker is awarded no permanent disability benefits for the accepted strain.

Thus, in the above scenario, we have an injured worker who: (1) still requires treatment primarily because of the compensable injury, but who has no access to medical services; and (2) is unable to get her acceptance notice modified because she needs the medical treatment to get such a modification. In other words, despite unanimous evidence that a compensable work injury is the major cause of disability/need for treatment for her wrist, the injured worker is not entitled to any medical services or other benefits because her “compensable injury” is understood only to be an “accepted condition” of a strain. As set forth above, I find the legislative intent, as codified by the applicable statutory language and reflected in the legislative history, directly at odds with such a result. In other

words, I find no legislative intent to replace the definition of “compensable injury” under ORS 656.005(7)(a) with whatever condition a carrier elects to formally accept.

In sum, despite the absence of any change in the statutory definition of “compensable injury” to mean *only* an “accepted condition,” the latter phrase has *replaced* the former when it comes to determining disputes under ORS 656.005(7)(a)(B) and ORS 656.245(1)(a). Specifically, under current case law involving denials issued pursuant to ORS 656.005(7)(a)(B), *no consideration* is given to whether the accidental injury that “[arose] out of and in the course of employment” is the major contributing cause of the disability/need for treatment of a combined condition. Likewise, for medical services disputes under ORS 656.245, *no consideration* is given as to whether the disputed medical service is for a current condition caused in material part by an accidental injury that “[arose] out of and in the course of employment.” Rather, the *only consideration* under both statutes concerns conditions that carriers have accepted at the particular time of the dispute.

For the reasons set forth above, I would find that “compensable injury” means precisely that set forth in the statutory definition of that term (ORS 656.005(7)(a)), *i.e.*, “an accidental injury * * * arising out of and in the course of employment requiring medical services or resulting in disability or death.” Such a definition does not tether a “compensable injury” to only an “accepted condition.” Moreover, the legislative history establishes that “compensable injury” means “the work injury/work event,” and not an “accepted condition,” which is a concept directed to providing clarification to carriers in responsibility disputes. Nevertheless, I am constrained by the aforementioned precedent to uphold the employer’s denial, even though the persuasive medical evidence establishes that claimant’s compensable work injury is the major contributing cause of his ongoing disability/need for treatment for his low back condition. Therefore, I respectfully concur.