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In the Matter of the Compensation of  
**CREIGHTON E. KENNEY, Claimant**  
WCB Case No. 11-05964, 10-06553  
ORDER ON REVIEW  
Unrepresented Claimant  
Holly O'Dell, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Langer and Weddell.

Claimant, *pro se*,<sup>1</sup> requests review of that portion of Administrative Law Judge (ALJ) Poland's order that upheld the SAIF Corporation's denial of his new/omitted medical condition claim for a left knee condition. On review, the issue is compensability.

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

After claimant's compensable 2004 injury, SAIF accepted a left knee strain and medical meniscus tear. On September 13, 2010, claimant filed a new/omitted medical condition claim for a left knee anterior cruciate ligament (ACL) condition, which SAIF denied. Claimant requested a hearing.

The ALJ reasoned that claimant had not proven the compensability of his ACL condition under either the "material contributing cause" or "major contributing cause" standards.<sup>2</sup> On review, claimant contends that the medical evidence supporting the denial is based on inaccurate information and is unpersuasive. As explained below, we find that claimant has not proven the compensability of his ACL condition.

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<sup>1</sup> Because claimant is unrepresented, he may wish to consult the Ombudsman for Injured Workers. He 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

<sup>2</sup> The ALJ reached this conclusion without addressing "preclusion" arguments that SAIF made regarding a prior ALJ's order, a Disputed Claim Settlement (DCS), and a Claim Disposition Agreement (CDA). Because we find that the medical evidence does not support compensability, we also need not address SAIF's "preclusion" arguments.

Claimant must prove the compensability of an injury or occupational disease. ORS 656.266(1). The causation issue presents a complex medical question that must be resolved by expert medical evidence. *Uris v. State Comp. Dep't*, 247 Or 420, 426 (1967); *Barnett v. SAIF*, 122 Or App 279, 283 (1993).

To prove the compensability of his ACL condition as a new/omitted medical condition under his 2004 claim, claimant must show that the condition exists and that the work injury was a material contributing cause of his disability or need for treatment of the condition. ORS 656.266(1); ORS 656.005(7)(a); *Kristin E. Hurley*, 63 Van Natta 2090, 2091 (2011); *Maureen Y. Graves*, 57 Van Natta 2380, 2381 (2005). A “material contributing cause” is a substantial cause. *Knaggs v. Allegheny Techs.*, 223 Or App 91, 97 (2008); *Van Blokland v. Oregon Health Sci. Univ.*, 87 Or App 694, 698 (1987) (“The compensable injury need not be the sole cause or the most significant cause of the need for treatment, but only a material cause”); *Summit v. Weyerhaeuser Co.*, 25 Or App 851, 856 (1976) (work activity must have more than a minimal effect, but need not be the sole or primary cause).

To prove the compensability of his ACL condition as an occupational disease, claimant must prove that employment conditions, including specific work injuries, were the major contributing cause of the disease. ORS 656.266(1); ORS 656.802(2)(a); *Kepford v. Weyerhaeuser Co.*, 77 Or App 363 (1986); *but see Anthony Castro*, 59 Van Natta 2008, 2013 (2007) (condition not an occupational disease where it was attributable to specific injuries). If the occupational disease claim is based on the worsening of a preexisting condition, claimant must prove that employment conditions were the major contributing cause of the combined condition and pathological worsening of the preexisting disease. ORS 656.802(2)(b).

For the reasons explained by the ALJ, the medical evidence does not carry claimant’s burden of proof, regardless of which theory of compensability governs this claim. Accordingly, we affirm.

#### ORDER

The ALJ’s order dated December 1, 2011 is affirmed.

Entered at Salem, Oregon on June 13, 2012