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In the Matter of the Compensation of  
**BLANCA E. PEREZ-ESTRELLA, Claimant**  
WCB Case No. 12-01207  
ORDER ON RECONSIDERATION  
Ernest M Jenks, Claimant Attorneys  
Lyons Lederer LLP, Defense Attorneys

Reviewing Panel: Members Lowell, Weddell, and Somers.  
Member Weddell dissents.

On November 13, 2013, the Board affirmed an Administrative Law Judge's (ALJ's) order that upheld the self-insured employer's denials of claimant's new/omitted medical condition claim for an L5-S1 disc bulge/protrusion/herniation. Claimant requests reconsideration and asks us to reconsider the evidence.

Following our review of the record and after considering claimant's arguments on appeal, we deleted some sentences from the ALJ's order and determined that the ALJ's reasoning and conclusion fully addressed the compensability issue and represented our opinion for purposes of appellate review. *See George v. Richard's Food Center*, 90 Or App 639 (1998); *Jorge Pedroza*, 49 Van Natta 1019 (1997). In doing so, we implicitly determined that supplementation of the ALJ's order was not necessary. *See e.g., Julie A. Powell*, 65 Van Natta 1142 (2013). Nevertheless, in response to claimant's motion, we offer the following additional comments.

On reconsideration, claimant contends that the most well reasoned opinion, rather than the hiring of numerous "IME" physicians on behalf of the employer, should determine the outcome of this case. Based on the following reasoning, we adhere to our previous decision.

In evaluating the medical evidence, we rely on those opinions that are well reasoned and based on the most complete relevant information. *Jackson County v. Wehren*, 186 Or App 555, 559 (2003); *Somers v. SAIF*, 11 Or App 259, 263 (1986). Furthermore, we reach our decision regarding the persuasiveness of medical opinions based on their substance, not on their quantity. *Makeesha M. Williams*, 65 Van Natta 2068 (2013); *Betty S. Ragland*, 64 Van Natta 197 n 1 (2012). Contrary to claimant's implication, our decision was not based on the quantity of medical reports.

To prevail on her new/omitted medical condition claim, claimant has the burden to prove that the claimed condition exists and that her work injury was at least a material contributing cause of her disability or need for treatment for that condition. ORS 656.005(7)(a); ORS 656.266(1); *Maureen Y. Graves*, 57 Van Natta 2380, 2381 (2005).

Claimant relies on the opinion of Dr. Soldevilla to sustain her burden of proof. However, for the reasons expressed in the ALJ's order, we determined that Dr. Soldevilla's opinion was insufficient to establish that claimant's February 2010 work injury was a material contributing cause of her disability/need for treatment for an L5-S1 disc bulge/protrusion. For example, Dr. Soldevilla was at a disadvantage in formulating a causation opinion because he did not begin treating claimant until more than two and a half years after the work injury. In addition, he did not adequately respond to the opinions of Drs. Rosenbaum, Gerry, and Lorber,<sup>1</sup> who concluded that claimant's symptoms did not correlate with the L5-S1 disc bulge/protrusion. (Exs. 50, 52A, 53, 54, 56). Finally, Dr. Soldevilla did not persuasively explain why claimant's L5-S1 epidural steroid injection did not alleviate her symptoms.<sup>2</sup> After further considering this matter, we continue to find that Dr. Soldevilla's opinion is not sufficient to sustain claimant's burden of proof.

Accordingly, we withdraw our November 13, 2013 order. On reconsideration, as supplemented, we republish our November 13 order. The parties' 30-day statutory rights of appeal shall begin to run from the date of this order.

**IT IS SO ORDERED.**

Entered at Salem, Oregon on November 27, 2013

Member Weddell dissenting.

For the reasons expressed in my previous dissent, I continue to disagree with the majority's conclusion that claimant did not establish that her February 15, 2010 work injury was a material contributing cause of her disability/need for treatment for an L5-S1 disc bulge/protrusion.

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<sup>1</sup> Drs. Gerry and Lorber were consulting, not "IME," physicians. (Exs. 23, 45).

<sup>2</sup> Drs. Lorber and Gerry referred to claimant's lack of symptomatic relief from Dr. Stapleton's epidural steroid injections in expressing their opinion that claimant's L5-S1 disc bulge/protrusion was not causing her symptoms. (Exs. 52A, 56-34, -35).