

In the Matter of the Compensation of  
**GRISELDA MENDOZA-GOMEZ, Claimant**

WCB Case No. 12-00942

ORDER ON REVIEW

Unrepresented Claimant

Heidi M Havercroft, SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Lanning and Lowell.

Claimant, *pro se*, requests review of Administrative Law Judge (ALJ) Jacobson's order that found that claimant's right shoulder and cervical strain injury claim was not prematurely closed.<sup>1</sup> On review, the issue is premature closure.

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

The issue before the ALJ concerned whether claimant's condition was medically stationary, as required by ORS 656.268(1), before claim closure. The ALJ concluded that the medical evidence persuasively established that claimant's condition was medically stationary. Therefore, the ALJ determined that the claim closure was not premature.

On review, claimant asserts that she requires additional medical treatment for her compensable condition, which she has been unable to obtain. However, determination of "medically stationary" status for purposes of claim closure is a separate determination from a potential ongoing need for medical treatment.

A claim may not be closed unless claimant's compensable condition is medically stationary. *See* ORS 656.268(1)(a). "Medically stationary" means that no further material improvement would reasonably be expected from medical treatment or the passage of time. ORS 656.005(17). The term "medically stationary" does not mean that there is no longer a need for continuing medical care. *Maarefi v. SAIF*, 69 Or App 527, 531 (1984); *Pennie Richerd-Puckett*, 61 Van Natta 336 (2009).

---

<sup>1</sup> Inasmuch as claimant is unrepresented, she may wish to consult the Ombudsman for 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

---

Thus, the ALJ's determination that the accepted conditions were "medically stationary" does not preclude claimant from receiving medical treatment for those conditions, as long as such treatment satisfies the statutory requirements prescribed in ORS 656.245(1). In other words, claimant requires medical treatment that is due, in material part, to her accepted right shoulder/cervical strain conditions, and the treatment meets the aforementioned statutory requirements, she is entitled to receive such medical services. See ORS 656.245(1); *Mize v. Comcast Corp-AT&T Broadband*, 208 Or App 563, 569-71 (2006).

However, our review is confined to whether claimant's compensable condition was medically stationary at the time of closure. *Berliner v. Weyerhaeuser Corp.*, 54 Or App 624 (1981). To make that determination, we consider the probative medical evidence. *Harmon v. SAIF*, 54 Or App 121, 125 (1981); *Austin v. SAIF*, 48 Or App 7, 12 (1980). This record, for the reasons expressed by the ALJ, establishes that claimant's accepted conditions were medically stationary at claim closure. Accordingly, we affirm.

#### ORDER

The ALJ's order dated November 20, 2012 is affirmed.

Entered at Salem, Oregon on April 16, 2013