
In the Matter of the Compensation of
LARRY D. BERNARDI, Claimant
Own Motion No. 16-00039OM
INTERIM OWN MOTION ORDER POSTPONING ACTION ON REVIEW OF
CARRIER CLOSURE
Unrepresented Claimant
Liberty NW Ins Corp, Carrier

Reviewing Panel: Members Johnson and Weddell.

Claimant, *pro se*, requests review of a June 15, 2016 Own Motion Notice of Closure that awarded an additional 23 percent (34.5 degrees) scheduled permanent partial disability (PPD) for his “post-aggravation rights” new/omitted medical condition (right knee post traumatic osteoarthritis). On review, claimant seeks an increased permanent disability award, as well as the appointment of a medical arbiter.

FINDINGS OF FACT

On November 13, 2015, the insurer voluntarily reopened claimant’s Own Motion claim for the aforementioned “post-aggravation rights” new/omitted medical condition. (Ex. 11).

On June 15, 2016, the insurer issued an Own Motion Notice of Closure that awarded additional scheduled permanent disability for the aforementioned new/omitted medical condition. (Ex. 23).

Claimant has requested review of the June 2016 Notice of Closure. He seeks an increased permanent disability award, as well as the appointment of a medical arbiter.

CONCLUSIONS OF LAW AND OPINION

Because claimant requests review of the Own Motion Notice of Closure based on his disagreement with the impairment findings used to rate his disability, requests the appointment of a medical arbiter, and consistent with the procedures set forth in *Miranda*, we postpone our review of the Own Motion claim closure pending receipt of a medical arbiter’s report. *See John S. Ross*, 56 Van Natta 3369 (2004); *Edward A. Miranda*, 55 Van Natta 784 (2003).

We also refer the claim to the Director to appoint a medical arbiter. The parties shall provide the Director with whatever information the Director deems necessary to assist the medical arbiter, including identification of the accepted “post-aggravation rights” new/omitted medical condition (right knee post traumatic osteoarthritis), the only condition for which claimant is presently entitled to a rating of PPD benefits under ORS 656.278(1)(b) and ORS 656.278(2)(d).¹

Following completion of the medical arbiter process, and the Board’s receipt of a copy of the medical arbiter report, a supplemental briefing schedule will be implemented to allow the parties an opportunity to address the effect, if any, the arbiter’s report has on claimant’s request for review of the closure notice. After completion of that schedule, we will proceed with our review.²

IT IS SO ORDERED.

Entered at Salem, Oregon on August 10, 2016

¹ The Appellate Review Unit (ARU) is requested to provide the Board with a copy of the entire written record (including any cover letter or questions to the arbiter from ARU) that it forwards to the medical arbiter.

² Finally, 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:

OMBUDSMAN FOR INJURED WORKERS
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM, OR 97309-0405