In the Matter of the Compensation of
EUSTACIO M. SOLIS, Claimant
Own Motion No. 16-00032OM
OWN MOTION ORDER
Dale C Johnson, Claimant Attorneys
MacColl Busch Sato PC, Defense Attorneys

Reviewing Panel: Members Lanning and Curey.

The carrier has submitted its recommendation against the reopening of claimant's Own Motion claim for a "worsening" of his previously accepted right shoulder conditions. ORS 656.278(1)(a). The carrier opposes reopening, contending that claimant's compensable conditions do not require any medical treatment that qualifies for claim reopening. Based on the following reasoning, we deny claim reopening.

Pursuant to ORS 656.278(1)(a), among the requirements for the reopening of an Own Motion claim for a worsening of a compensable injury is a requirement that the worsening must require hospitalization, surgery (either inpatient or outpatient), or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the worker to return to work. *Heath A. Wiltfong*, 57 Van Natta 3108 (2005); *Larry D. Little*, 54 Van Natta 2536 (2002), .

Whether a worsening of the compensable injury requires hospitalization, inpatient or outpatient surgery, or "other curative treatment prescribed in lieu of hospitalization that is necessary to enable the injured worker to return to work" presents a medical question that must be addressed by persuasive medical evidence. *Terry L. Smith*, 55 Van Natta 2763 (2003).

Here, on March 29, 2016, claimant sought treatment for right shoulder pain from Dr. Sewell, who recommended conservative treatment (steroid injections and physical therapy). (Ex. 160-4). Claimant underwent a steroid injection that same day. (*Id.*)

In April 2016, Dr. Blake, claimant's attending physician, prescribed physical therapy. (Ex. 162-3). Subsequently, Dr. Blake stated that he was encouraged by claimant's progress with physical therapy and recommended that he continue with that treatment. (Exs. 166-1, 167). Dr. Blake also opined that claimant would likely get by without undergoing right shoulder surgery. (Ex. 166-1). Finally, on

June 6, 2016, Dr. Blake agreed that claimant's right shoulder conditions did not require hospitalization, surgery, or other curative treatment prescribed in lieu of hospitalization that was necessary for him to return to work. (Ex. 169).

Under such circumstances, the record does not establish that claimant's accepted right shoulder conditions required hospitalization, surgery or other curative treatment that was prescribed in lieu of hospitalization that was necessary to enable him to return to work. ORS 656.278(1)(a); *Larry Little*, 54 Van Natta 2536, 2546 (2002). In other words, no physician recommended surgery or hospitalization for claimant's compensable condition. Moreover, the record does not establish that there was any medical treatment prescribed for his previously accepted shoulder condition that constitutes "other curative treatment prescribed in lieu of hospitalization that is necessary to enable the injured worker to return to work." *See Danny L. Johnson*, 56 Van Natta 129 (2004).

Therefore, the aforementioned statutory requirement for claim reopening has not been satisfied. Accordingly, the request for claim reopening is denied. Claimant's entitlement to medical services pursuant to ORS 656.245 is not affected by this order.

IT IS SO ORDERED.

Entered at Salem, Oregon on July 21, 2016