
In the Matter of the Compensation of
DENNIS R. BLANCHARD, Claimant
Own Motion No. 16-000200M
INTERIM OWN MOTION ORDER POSTPONING ACTION ON REVIEW OF
CARRIER CLOSURE
Guinn & Dalton, Claimant Attorneys
Sather Byerly & Holloway, Defense Attorneys

Reviewing Panel: Members Johnson and Weddell.

Claimant requests review of a March 28, 2016 Own Motion Notice of Closure that awarded an additional 10 percent (15 degrees) scheduled permanent partial disability (PPD) for his “post-aggravation rights” new/omitted medical condition (left knee arthritis). On review, claimant seeks an increased permanent disability award, as well as the appointment of a medical arbiter.¹

FINDINGS OF FACT

On March 20, 2015, the carrier voluntarily reopened claimant’s Own Motion claim for the aforementioned “post-aggravation rights” new/omitted medical condition. (Ex. 26).

On March 28, 2016, the carrier issued an Own Motion Notice of Closure that awarded additional scheduled permanent disability for the aforementioned new/omitted medical condition.

Claimant has requested review of the March 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, and requests the appointment of a medical arbiter, 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).

¹ Claimant initially contended that the Notice of Closure was premature. However, he has since withdrawn that procedural issue, and seeks the appointment of a medical arbiter for purposes of evaluating his permanent impairment.

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 (left knee arthritis), 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).²

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.

IT IS SO ORDERED.

Entered at Salem, Oregon on June 29, 2016

² 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.