In the Matter of the Compensation of
DARRYL WRAY, Claimant
WCB Case Nos. 14-05288, 14-04555
ORDER ON RECONSIDERATION
Ransom Gilbertson Martin et al, Claimant Attorneys
Ronald W Atwood PC, Defense Attorneys

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

On January 29, 2016, we withdrew our December 31, 2015 order that affirmed an Administrative Law Judge's (ALJ's) order that, among other decisions: (1) set aside the self-insured employer's denial of claimant's new/omitted medical condition claim for a recurrent L4-5 disc herniation; and (2) awarded a $6,000 carrier-paid attorney fee. We took this action to consider the employer's contention that we should address whether an "off work" motor vehicle accident was also a material cause of his disability/need for treatment for his claimed condition. Having received claimant's response (which opposes the employer's request as "advisory" in nature for purposes of this compensability decision), we proceed with our reconsideration.

This date, we have issued a decision regarding the parties' "third party" dispute that arises from the "off-work" motor vehicle accident. Specifically, we have determined that the employer is entitled to assert a lien for any claim costs it believes are attributable to the aforementioned accident. In light of that determination, it is unnecessary to include a "material cause" finding regarding that accident in this compensability decision.

Accordingly, on reconsideration, as supplemented, we republish our December 30, 2015 order, effective this date. The parties' 30-day rights of appeal shall begin to run from the date of this order.

IT IS SO ORDERED.

Entered at Salem, Oregon on April 15, 2016

Member Curey, dissenting.

For the reasons expressed in my initial dissenting opinion, I am unpersuaded that claimant's new/omitted medical condition claim is compensable. In light of this determination, it is unnecessary to address the employer's "material cause" request within the context of this decision.