

---

In the Matter of the Compensation of  
**STEVEN WITBECK, Claimant**  
WCB Case No. 13-02706, 11-04503  
**ORDER OF DISMISSAL (REMANDING)**  
Unrepresented Claimant  
Gress & Clark LLC, Defense Attorneys

Reviewing Panel: Members Johnson and Weddell.

The Board has received from claimant, *pro se*,<sup>1</sup> a “request for review” of Administrative Law Judge (ALJ) Crummé’s July 7, 2016 “Interim Order.”<sup>2</sup> Because we conclude that the ALJ’s order is not a final order, we dismiss the request for review.

FINDINGS OF FACT

Claimant requested a hearing to appeal the self-insured employer’s denials of his mental disorder claims. Thereafter, he submitted correspondence indicating that the Director had jurisdiction to consider his challenges to the employer’s denials. Claimant also raised a medical services issue and discussed an unemployment claim matter. The employer responded that jurisdiction over the denials was with the Board/Hearings Division, and that because the pending matter involved a denial of an initial claim and no condition had been accepted, neither the Board nor the Director had jurisdiction over the medical services dispute.

---

<sup>1</sup> 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:

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

<sup>2</sup> In his request, claimant also references orders dated “September 6, 2016” and “September 2, 2016.” There is no order, interim or otherwise, with an issue date of September 6, 2016. However, the ALJ issued a September 2 letter, which clarified the jurisdictional issues and burdens of proof relative to the denied claim. To the extent claimant is requesting review of the ALJ’s September 2, 2016 “letter,” for the same reasons expressed herein regarding the July 7, 2016 Interim Order, that letter is not an appealable final order. *Lindamood v. SAIF*, 78 Or App 15, 18 (1986); *Mendenhall v. SAIF*, 16 Or App 136, 139 (1974).

In a July 7, 2016 interim order, which contained no appeal rights, the ALJ concluded that the Hearings Division had jurisdiction over the denials, as they constituted a “matter concerning a claim” pursuant to ORS 656.704(3)(b)(A). *See* ORS 656.708. The ALJ further questioned whether the Director had jurisdiction over any of the other issues discussed by claimant. In any event, the ALJ noted that a party may request a hearing before the Workers’ Compensation Division (on behalf of the Director) by writing directly to the Director, if the party was dissatisfied with an action or order regarding a matter that did not concern a claim. *See* ORS 656.704(2)(a).

On September 9, 2016, claimant submitted a faxed document to the ALJ, taking “exception” to the ALJ’s order and requesting that the scheduled hearing be “vacated” and that “any new hearing not be scheduled until after the Board decides how the matter should be adjudicated.”

On September 13, 2016, interpreting claimant’s submission as a possible request for Board review, ALJ Crummé forwarded a copy to the Board. In addition, the ALJ postponed claimant’s scheduled hearing, pending the Board’s response to his “request for review.”

### CONCLUSIONS OF LAW AND OPINION

A final order is one which disposes of a claim so that no further action is required. *Price v. SAIF*, 296 Or 311, 315 (1984). A decision that neither denies the claim, nor allows it and fixes the amount of compensation, is not an appealable final order. *Lindamood v. SAIF*, 78 Or App 15, 18 (1986); *Mendenhall v. SAIF*, 16 Or App 136, 139 (1974).

Here, the ALJ’s July 7, 2016 order (or any “pre-hearing” letter) neither finally disposed of, nor allowed, the claim. Moreover, the order did not fix the amount of claimant’s compensation. Rather, the order was interim in nature. Specifically, the ALJ’s order addressed a jurisdictional issue and advised claimant of further options for future claim matters.<sup>3</sup>

---

<sup>3</sup> As noted in the ALJ’s order, if claimant wishes to file a request for hearing with the Director, he may do so. However, if he chooses to do so before the compensability of his currently denied claim has been established, he should be prepared to explain how the Director has authority over any issue arising from a claim that has never been found compensable.

---

As a result of the ALJ's July 7, 2016 order, further proceedings will be required to determine claimant's entitlement to and/or the amount of compensation. Inasmuch as further action before the Hearings Division is required as a result of the ALJ's order, we conclude that the order is not a final order. *Bertha Barringer*, 61 Van Natta 504, 507 (2009) (portion of the ALJ's order granting a continuance on certain denials not a final order); *Allen H. Howard*, 42 Van Natta 2706 (1990).

Consequently, jurisdiction to consider this matter continues to rest with the Hearings Division. Therefore, any review of the procedural and substantive decisions reached by the ALJ must await issuance of the ALJ's eventual final order (assuming that a party timely seeks Board review of that subsequent order).

Accordingly, claimant's request for review is dismissed and this case is returned to the Hearings Division for the scheduling of a hearing with ALJ Crummé consistent with his July 7, 2016 order.<sup>4</sup>

**IT IS SO ORDERED.**

Entered at Salem, Oregon on September 16, 2016

---

<sup>4</sup> As previously noted, the ALJ has also issued an order postponing the scheduled hearing to await our decision regarding claimant's "request for review." Because we have now resolved the "request" matter, the hearing may now be scheduled.