
In the Matter of the Compensation of
JUANA E. GALINDO, Claimant
WCB Case No. 15-03125
ORDER ON REVIEW
Thomas Coon Newton & Frost, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Lanning and Curey. Member Lanning specially concurs.

Claimant requests review of Administrative Law Judge (ALJ) Kekauoha's order that found that her claim was not prematurely closed. On review, the issue is premature closure.

We adopt and affirm the ALJ's order.¹

ORDER

The ALJ's order dated January 19, 2016, as reconsidered on March 21, 2016, is affirmed.

Entered at Salem, Oregon on October 20, 2016

¹ Claimant requests that this matter be reviewed *en banc*. While a matter may merit *en banc* review as a "significant case," such a designation is a matter for the reviewing panel to make based on their review of a particular record. See, e.g., *Mary C. Green-Kilburn*, 58 Van Natta 46, 46 n 1 (2006); *Earl L. Howard, Sr.*, 56 Van Natta 2421, 2421 (2004); *Brian W. Andrews*, 48 Van Natta 2532, 2532 (1996). After reviewing this record and the parties' arguments, we do not consider this case to present issues to review *en banc*.

We have previously determined that adhering to our holding in *Stuart C. Yekel*, 67 Van Natta 1279 (2015), is the most administratively judicious approach, notwithstanding the court's footnote in *Magana-Marquez v. SAIF*, 276 Or App 32, 34 n 2 (2016). See *William Snyder*, 68 Van Natta 199, 200 n 1 (2016). We have applied that rationale to premature closure cases. See *Katherine A. Lapraim*, 68 Van Natta 39 (2016). If claimant is asserting that an unaccepted condition related to the compensable injury is not "medically stationary," in accordance with the *Manley v. SAIF*, 181 Or App 431, 438 (2002), and *Yekel* rationales, that condition must be claimed and, if it is accepted or determined to be compensable, the carrier would be required to reopen the claim and process it to closure. *Lapraim*, 68 Van Natta at 40 n 3; *Yekel*, 67 Van Natta at 1286 n 6.

Member Lanning specially concurring.

For the reasons expressed in my dissenting opinion in *Stuart C. Yekel*, 67 Van Natta 1279 (2015) (Members Lanning and Weddell dissenting), I do not agree that the rating of permanent impairment is limited to the accepted conditions rather than the compensable work-related injury. However, under the principles of *stare decisis*, I follow the holding of *Yekel* and concur with the outcome in this case.