
In the Matter of the Compensation of
JOY M. WALKER, Claimant
WCB Case Nos. 09-04145, 09-02065
ORDER ON REMAND
Ronald A Fontana, Claimant Attorneys
Lyons Lederer LLP, Defense Attorneys

Reviewing Panel: Members Weddell, Curey, and Somers.¹

This matter is before the Board on remand from the Court of Appeals. *Walker v. Providence Health System Oregon*, 267 Or App 87 (2014). The court reversed that portion of our prior order, *Joy M. Walker*, 63 Van Natta 564 (2011), that declined to award a penalty under ORS 656.262(11)(a) for an unreasonable delay in the self-insured employer's acceptance of claimant's new/omitted medical condition claim for "major depression and panic disorder." In reaching our previous conclusion, we had reasoned that there were no amounts "then due" on which to base a penalty pursuant to ORS 656.262(11)(a). Holding that claimant was entitled to a penalty under ORS 656.262(11)(a) for the employer's unreasonable delay in the acceptance of claimant's "major depression and panic disorder," based on the amount of compensation ultimately awarded on this claim, the court has remanded for the determination of the penalty.

Consistent with the court's mandate, we proceed with that penalty determination. As noted in the court's decision, claimant ultimately received a 35 percent permanent disability award for her major depression and panic disorder claim. *Walker*, 267 Or App at 107.

Accordingly, for the employer's unreasonable claim acceptance, claimant is awarded a penalty equal to 25 percent of the 35 percent unscheduled permanent disability that was ultimately awarded on this claim, to be paid by the employer.

IT IS SO ORDERED.

Entered at Salem, Oregon on September 1, 2015

¹ Member Lowell and Chair Herman were members of the initial reviewing panel. Because they are no longer members, Member Curey and Chair Somers have participated in this review.