
In the Matter of the Compensation of
ALEX MARTYNOV, Claimant
WCB Case No. 14-01554
ORDER ON REVIEW
Dunn & Roy PC, Claimant Attorneys
Scott H Terrall & Associates, Defense Attorneys

Reviewing Panel: Members Lanning and Curey.

Claimant requests review of that portion of Administrative Law Judge (ALJ) Otto's order that upheld the self-insured employer's denial of claimant's new/omitted medical condition claim for a C3-4 annular condition. On review, the issue is compensability.

We adopt and affirm the ALJ's order, except for the first full sentence after the quoted passage on Page 11 and the paragraph immediately following that passage.¹

ORDER

The ALJ's order dated June 10, 2015 is affirmed.

Entered at Salem, Oregon on January 19, 2016

¹ In his August 18, 2014 chart note, Dr. Brett stated that claimant had "persistent neck pain and bilateral shoulder pain, likely from a cervical disk injury sustained at work on 09/16/2013 that has not improved despite conservative measures up to this point." (Ex. 89). This statement further supports the ALJ's analysis of Dr. Brett's opinion and his conclusion that Dr. Brett had an incorrect understanding of claimant's progression of symptoms over time. Furthermore, because the dispute involves expert analysis rather than expert external observation, Dr. Brett's opinion is not entitled to special deference based on his status as claimant's attending physician. See *Allie v. SAIF*, 79 Or App 284 (1986); *Hammons v. Perini Corp.*, 43 Or App 299, 301 (1979); *Jonathan L. Lopez*, 60 Van Natta 1137, 1139 (2008) (no special deference to the attending physician where the dispute concerned differing interpretations of MRI scan and correlative symptoms of right radiculopathy). Finally, because claimant has not established that the work injury was a material cause of her disability/need for treatment, it is unnecessary to address the employer's burden of proof. See *Hollis L. Strickland*, 62 Van Natta 2790, 2792 n 1 (2010) (a "combined condition" analysis is not appropriate in the absence of an "otherwise compensable injury").