

In the Matter of the Compensation of
JOE GUERRA, Claimant
WCB Case No. 15-02165
ORDER ON REVIEW
Unrepresented Claimant
Cummins Goodman et al, Defense Attorneys

Reviewing Panel: Members Lanning and Curey.

Claimant, *pro se*,¹ requests review of Administrative Law Judge (ALJ) Pardington's order that upheld the self-insured employer's denial of claimant's occupational disease claim for neck, left shoulder, left elbow, and left wrist conditions. On review, the issue is compensability.²

We adopt and affirm the ALJ's order, subject to the following qualification.

Compensability of this disputed claim is a complex medical question that must be resolved on the basis of persuasive expert medical opinion. *Jackson County v. Wehren*, 186 Or App 555, 559 (2003), *citing Uris v. Comp. Dep't*, 247 Or 420, 426 (1967). Here, Dr. Edwards, attending physician, rendered an opinion that appears to support some connection between claimant's work and his claimed condition. (Ex. 45). Specifically, Dr. Edwards concluded that claimant's complaints were "especially and causally related" to a February 17, 2015 injury/exposure on a more probable than not basis. (*Id.*) However, Dr. Edwards clarified that her "opinion may vary by diagnosis." (*Id.*) Thus, Dr. Edwards's causation opinion, without further explanation, is internally inconsistent as to whether it is based on a medically probability. Thus, we find her opinion unpersuasive. *See, e.g., Howard L. Allen*, 60 Van Natta 1423, 1424-25 (2008) (internally inconsistent medical opinion, without sufficient explanation, found unpersuasive).

¹ Because claimant is currently 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

² Claimant also challenges the ALJ's evidentiary rulings, which excluded records related to his previous employment, as well as safety logs concerning this employer. Because the issue in this case concerns whether claimant's work activities were the major contributing cause of his claimed conditions, or their worsening, we find no abuse of discretion in the ALJ's ruling that the aforementioned proposed exhibits were not relevant to the resolution of this compensability issue.

In addition, Dr. Edwards's opinion did not address whether claimant's work activities were the major contributing cause of claimant's conditions as required by ORS 656.802(2)(a).³ Rather, she focused on claimant's complaints. *See Tripp v. Ridge Runner Timber Servs.*, 89 Or App 355 (1988) (an occupational disease claim must be proved with the presence of a condition and not merely with symptoms); *Daymen C. Kessler*, 60 Van Natta 2285 (2008). Consequently, her opinion is insufficient to meet claimant's burden of proof. *See* ORS 656.266(1); ORS 656.802(2)(a).

Moreover, Dr. Edwards did not attempt to address claimant's medical history or records. As a result, we do not consider her opinion to be well-reasoned or based on sufficient or complete information. *See Jackson County v. Wehren*, 186 Or App 555, 560-61 (2003) (a history is complete if it includes sufficient information on which to base the opinion and does not exclude information that would make the opinion less credible); *Miller v. Granite Construction Co.*, 28 Or App 473, 476 (1977) (opinion based on incomplete information found unpersuasive). Finally, when provided an opportunity to do so (Ex. 68), Dr. Edwards did not respond to Dr. Chadderdon's alternative reasoning, which causes us to further discount her opinion. *See Louise Richards*, 57 Van Natta 80, 81 (2005) (physician's opinion unpersuasive when it did not rebut or respond to contrary opinion).

Accordingly, based on the aforementioned reasoning, we do not consider Dr. Edwards's opinion sufficient to meet the requisite compensability standard for the claimed occupational disease. *See* ORS 656.266(1); ORS 656.802(2)(a). Alternatively, even if Dr. Edwards's opinion was considered to be sufficient, Dr. Chadderdon's opinion (Ex. 66), which did not support compensability of the claimed conditions, was more persuasive (for the reasons expressed in the ALJ's order). Consequently, we affirm.

ORDER

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

Entered at Salem, Oregon on May 5, 2016

³ Moreover, Dr. Edwards based her opinion on a specific date (February 17, 2015), rather than claimant's work activities over an extended period. Dr. Edwards's focus on a specific work incident/event does not persuasively establish that claimant's work activities were the major contributing cause of his claimed conditions. *See* ORS 656.266(1); ORS 656.802(2)(a).