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In the Matter of the Compensation of  
**LISKA I. JEWELL, Claimant**  
WCB Case No. 15-03945  
ORDER ON REVIEW  
Moore & Jensen, Claimant Attorneys  
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Lanning and Curey.

Claimant requests review of Administrative Law Judge (ALJ) Sencer's opinion that upheld the SAIF Corporation's denial of her injury claim for a left elbow condition. On review, the issue is compensability.

We adopt and affirm the ALJ's order with the following supplementation.

Claimant worked for the SAIF's insured, a community college, as a sign language interpreter. On June 10, 2015, while she was interpreting, "something \* \* \* tweaked and started hurting" in her left elbow. (Ex. 10; Tr. 9).

On June 16, 2015, Dr. Harrington, an urgent care physician who had previously treated claimant's left shoulder, diagnosed medial epicondylitis and ulnar neuropathy. (Exs. 1, 9, 15). On July 21, 2015, Dr. Hanna, an orthopedic surgeon who performed an examination at SAIF's request, opined that claimant's "signing" activity did not cause an injury or the need for treatment. (Ex. 25-11). Dr. Harrington agreed with Dr. Hanna's opinions. (Ex. 28).

On August 13, 2015, SAIF denied the claim. (Ex. 26). Claimant requested a hearing.

In his cross-examination deposition, Dr. Harrington opined that the "signing" movement that preceded claimant's symptoms caused her medial epicondylitis to become symptomatic and require treatment. (Ex. 30-7, -8). He opined that the medial epicondylitis, which he defined as degeneration of the tendon, was due to repetitive use and her preexisting left shoulder condition. (Ex. 30-12, -13, -14, -15). He suspected that claimant's elbow tendons had been degenerating "probably for as long as she has had the shoulder problem."<sup>1</sup> (Ex. 30-25).

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<sup>1</sup> On May 19, 2014, claimant told Dr. Harrington that she had had chronic left shoulder pain for many years. (Ex. 1). Dr. Harrington diagnosed left shoulder impingement syndrome. (*Id.*)

In her cross-examination deposition, Dr. Hanna opined that the arm movement that preceded claimant's symptoms could have caused claimant to feel symptoms, but did not cause the underlying pathology (Ex. 31-11).

At the hearing, claimant asserted that her left elbow claim was compensable as an industrial injury. (Tr. 1). However, concluding that all of the medical experts agreed that claimant's left elbow findings were due to long-term work and other exposures, as well as preexisting conditions, the ALJ determined that the left elbow condition was gradual in onset and should be analyzed as an occupational disease. Because the medical evidence did not meet that standard, the ALJ upheld SAIF's denial.<sup>2</sup>

On review, claimant contends that her claim should be analyzed as an injury because her need for medical services was caused by a particular incident at work or to work activity during an identifiable period. We agree with the ALJ's analysis and supplement the ALJ's order to address claimant's argument that an injury analysis applies.

Claimant has the burden of proving that her injury/occupational disease claim is compensable. ORS 656.266(1). In deciding whether to analyze her claim as an injury or occupational disease, it is necessary to determine whether claimant's condition developed gradually or suddenly. *See City of Albany v. Cary*, 201 Or App 147, 150 (2005) (citing *Smirnoff v. SAIF*, 188 Or App 438, 443 (2003)). In making that determination, we focus on the onset of the condition, rather than the condition's symptoms. *Id.*

Here, it is undisputed that claimant's left elbow symptoms first appeared on June 10, 2015, while she was signing. Yet, the medical evidence establishes that the condition giving rise to those symptoms developed gradually. (Exs. 30, 31). Dr. Harrington opined that claimant's left elbow tendons had been degenerating "probably for as long as she has had the shoulder problem." (Ex. 30-12, -14, -15, -25). Dr. Hanna attributed the condition to repetitive use. (Ex. 31-10). The record does not establish that the *condition* that became symptomatic on June 10, 2015, arose suddenly as the result of the identified work activity.

Under these circumstances, where the onset of the condition and the onset of symptoms did not coincide, the onset of symptoms and need for treatment must be viewed in the context of the condition to determine whether the claim is

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<sup>2</sup> Claimant's only argument was based on the injury theory.

compensable. *Smirnoff*, 188 Or App at 446 (the onset of the condition is the determining factor in deciding if a claim is for an injury or a disease). We agree with the ALJ's conclusions regarding the gradual onset of claimant's left elbow condition and the lack of sufficient proof of a compensable occupational disease. Accordingly, we affirm.

ORDER

The ALJ's order dated March 8, 2016 is affirmed.

Entered at Salem, Oregon on November 1, 2016