
In the Matter of the Compensation of
SHARON M. LARRY, Claimant
WCB Case No. 14-06314
ORDER ON REVIEW
Julene M Quinn LLC, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Curey and Lanning.

Claimant requests review of Administrative Law Judge (ALJ) Mills's order that upheld the SAIF Corporation's denials of her occupational disease claims for bilateral carpal tunnel syndrome (CTS) and right thumb and index finger trigger finger conditions. On review, the issue is compensability.

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

Claimant worked in the records department of a medical clinic preparing electronic medical records. (Tr. 1, 2, 17).

In November 2011, claimant was evaluated by Dr. Reichle for complaints of bilateral hand pain. (Ex. 24). Claimant reported working for eight years, using her hands repetitively at a computer. (*Id.*)

On November 25, 2011, claimant was evaluated by Dr. Vu, a hand surgeon. (Ex. 28-1). Dr. Vu noted complaints of "clicking" and "locking" of claimant's right thumb and index fingers. (*Id.*) Dr. Vu diagnosed triggering of the right thumb and index fingers as well as tendinitis and possible carpal tunnel syndrome (CTS). (Ex. 28-2). He recommended physical therapy and a cortisone injection. (*Id.*)

Following a medical evaluation by Dr. Spector, performed at SAIF's request, SAIF denied the claim on December 18, 2014.¹

On December 23, 2014, claimant discussed the denial with Dr. Vu. Noting further details regarding claimant's computer use at work, Dr. Vu considered such work to be causing symptoms of trigger finger, bilateral wrist sprain/strain, and tendonitis. (Ex. 33).

¹ Dr. Spector's report only discussed the compensability of claimant's bilateral CTS, and SAIF's denial specifically denied the claim for bilateral CTS. At hearing, SAIF amended its denial to include the diagnosed right upper extremity trigger fingers. (I-Tr. 1).

In January 2015, Dr. Vu signed an 827 form requesting acceptance of “trigger finger” as a new/omitted medical condition. (Ex. 35).

In March 2015, claimant was evaluated by Dr. Smith, an orthopedic surgeon, at SAIF’s request. (Ex. 38). Claimant demonstrated her manner of using a mouse and keyboard, and Dr. Smith noted the positioning of her arms and hands. (Ex. 38-8). He diagnosed right thumb and index finger trigger digits, and bilateral CTS. (*Id.*) Dr. Smith noted that claimant had preexisting obesity and that she was being managed by her primary care physician for a possible pre-diabetic condition. (*Id.*) He described those conditions as “non-occupational risk factors.” (Ex. 38-9).

Dr. Smith explained that claimant’s obesity, age, gender, and possible pre-diabetic condition contributed to the CTS and trigger finger conditions. (*Id.*) He concluded that claimant’s work activities would produce symptoms, but would not be major contributing cause of either condition. (*Id.*)

In June 2015, Dr. Smith further explained that specific activities associated with development of trigger finger conditions involve forceful or repetitive gripping with the digits. (Ex. 39-1). He did not consider the work activities described by claimant to constitute forceful sustained use of the index finger and thumb. (Ex. 39-2). Accordingly, Dr. Smith concluded that claimant’s work activities were not the major contributing cause of the claimed conditions.

On June 18, 2015, Dr. Vu stated that claimant’s work activities were consistent with the development of claimant’s trigger finger conditions. (Ex. 40-1). Dr. Vu also explained that claimant’s symptoms improved when she was off work. Finally, noting that there was no evidence of any off-work cause, she concluded that claimant’s described work activities were the major contributing cause of the trigger finger conditions. (*Id.*) Although noting the CTS diagnosis, Dr. Vu did not address the cause of that condition. (*Id.*)

The ALJ determined that there was no medical evidence to establish that claimant’s work activities were the major contributing cause of the claimed bilateral CTS, and upheld SAIF’s denial of that condition. Turning to the right index finger and thumb trigger finger conditions, the ALJ found Dr. Smith’s opinion persuasive. Finding the opinion of Dr. Vu to be inadequately explained, the ALJ upheld SAIF’s denial of the trigger finger conditions.

On review, claimant contends that the opinion of Dr. Vu establishes that her work activities were the major contributing cause of her CTS condition. Claimant also asserts that Dr. Vu's opinion is more persuasive than Dr. Smith's opinion with regard to the right index finger and thumb trigger finger conditions. Based on the following reasoning, we affirm the ALJ's order.

To establish a compensable occupational disease, claimant must show that her work activities were the major contributing cause of her claimed conditions. ORS 656.266(1); ORS 656.802(2)(a). The major contributing cause means a cause that contributes more than all other causes combined. *Smothers v. Gresham Transfer, Inc.*, 332 Or 83, 133-34 (2001). Determination of the major contributing cause is a complex medical question that must be resolved on the basis of expert medical opinion. *Jackson County v. Wehren*, 186 Or App 555, 559 (2003) (citing *Uris v. Comp. Dep't*, 247 Or 420, 426 (1967)).

CTS

Noting that Dr. Vu was in favor of appealing SAIF's denial of the CTS condition and was "very confident" that claimant's symptoms were associated with her work activities, claimant contends that Dr. Vu's opinion is sufficient to establish that her work activities are the major contributing cause of her CTS condition. (Ex. 33-2).

However, in providing that explanation, Dr. Vu stated that claimant's symptoms were due to "wrist sprain, strain, tendonitis, and triggering of her index finger and thumb." (Ex. 33-2). In a later concurrence letter, Dr. Vu specifically stated that claimant's work activities were the major contributing of her trigger finger and thumb condition. (Ex. 40-1). Notably, Dr. Vu did not state that claimant's work activities were the major contributing cause of her CTS condition. (*Id.*)

"Magic words" are not required when medical opinion otherwise meets the appropriate legal standards. *See Freightliner Corp. v. Arnold*, 142 Or App 98, 105 (1996). Here, Dr. Vu's opinion specifically addressed the requisite standard for some of the disputed conditions (right index and thumb trigger fingers), but not the other condition (bilateral CTS). Furthermore, while Dr. Vu supported an appeal of the CTS denial, the record does not establish that he was aware of the requisite standard for establishing the compensability of an occupational disease.

Under such circumstances, we do not consider Dr. Vu's opinion to persuasively support claimant's contention that her work activities were the major contributing cause of her CTS condition.

In conclusion, this record lacks a medical opinion persuasively establishing that claimant's work activities were the major cause of the claimed CTS condition. Accordingly, we affirm the ALJ's decision to uphold SAIF's denial of claimant's bilateral CTS condition. *See e.g. Mary E. Dodge*, 57 Van Natta 1096, 1099 n 1 (2005).

Right Index Finger/Trigger Thumb Conditions

Claimant notes that the ALJ interpreted Dr. Smith's opinion as stating that trigger digit conditions are caused by forceful *and* repetitive gripping, while Dr. Smith actually stated that the condition was associated with forceful *or* repetitive gripping. (Ex. 39-1). Nonetheless, we reach the same ultimate conclusion as the ALJ.

Dr. Smith described claimant's work activities as involving "repetitive flexion use," which would be causative of symptoms, but would not be the major contributing cause of claimant's trigger finger condition. (Ex. 38-9). In contrast, Dr. Vu considered claimant's "constant motion of her thumb and fingers" to be sufficient to be the major cause of her trigger finger condition. (Ex. 40-1).

Both physicians acknowledged that claimant's obesity, age, gender and possible diabetic condition could contribute to the trigger finger condition. (Exs. 38-9; 40-1).²

We consider Dr. Vu's opinion attributing claimant's trigger finger condition to her work activities to be conclusory and inadequately explained. *See Moe v. Ceiling Sys., Inc.*, 44 Or App 429, 433 (1980) (rejecting unexplained or conclusory opinion). While he commented that claimant had been doing repetitive computer

² Claimant contends that because claimant's obesity, age, gender and possible pre-diabetic condition were described as "risk factors," they cannot be considered in a determination of the major contributing cause. *See Multnomah County v. Obie*, 207 Or App 482, 487 (2006). However, both Drs. Smith and Vu also described those factors as contributing factors. (Exs. 38-9, 40-1). Therefore, those contributing factors must be considered in determining whether claimant's work activities were the major contributing cause of the trigger finger condition. *See Bowen v. Fred Meyer Stores*, 202 Or App 558, 563 (2005).

work for eight years, it is unexplained why that information led Dr. Vu to conclude that her work, rather than the other contributing factors that he acknowledged, was the major contributing cause. Therefore, we conclude that the claimed trigger finger conditions are not compensable.

Accordingly, the ALJ's order is affirmed.

ORDER

The ALJ's order dated November 12, 2015 is affirmed.

Entered at Salem, Oregon on September 21, 2016