
In the Matter of the Compensation of
TERRY L. BYERS, Claimant
WCB Case No. 16-02935, 16-02934
ORDER ON REVIEW
Unrepresented Claimant
Cummins Goodman et al, Defense Attorneys

Reviewing Panel: Members Curey and Ousey.

Claimant, *pro se*,¹ requests review of Administrative Law Judge (ALJ) Riecher's order that: (1) declined to set aside her Claim Disposition Agreement (CDA) and Disputed Claim Settlement (DCS); (2) found that the Hearings Division lacked jurisdiction to address her lost wages claim; and (3) declined to remove or impose sanctions on the insurer's counsel. On review, the issues are remand, the validity of the agreements, jurisdiction, and sanctions.

We adopt and affirm the ALJ's order with the following supplementation addressing procedural matters on review.

With her appellant's brief, claimant submits several documents that were not included in the hearing record. We treat such a submission as a motion to remand for the taking of additional evidence. *Juan H. Mendez*, 60 Van Natta 3150 (2008); *Judy A. Britton*, 37 Van Natta 1262 (1985).

Our review is limited to the record developed by the ALJ. ORS 656.295(5). However, we may remand to the ALJ for further development of the record if we find that the case has been improperly, incompletely, or otherwise insufficiently developed. *Id.* There must be a compelling reason for remand to the ALJ for the taking of additional evidence. *SAIF v. Avery*, 167 Or App 327, 333 (2000). A compelling reason exists when the new evidence: (1) concerns disability; (2) was not obtainable at the time of the hearing; and (3) is reasonably likely to affect the outcome of the case. *Id.*; *Compton v. Weyerhaeuser Co.*, 301 Or 641, 646 (1986).

¹ Because claimant is unrepresented, she may wish to consult the Ombudsman for Injured Workers. She may contact the Ombudsman, free of charge, at 1-800-927-1271, or write to:

OMBUDSMAN FOR INJURED WORKERS
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM, OR 97309-0405

Here, the additional documents submitted by claimant would not affect the outcome of the case. Therefore, remand is not warranted.

Furthermore, claimant raises additional issues regarding the CDA and DCS, as well as her capacity to enter those agreements. In response, asserting that those issues were not raised at the hearing level, the employer contends that they cannot be considered on review. Consequently, the employer moves to strike those portions of claimant's arguments.

It is our general practice not to consider issues raised for the first time on review. *See Stevenson v. Blue Cross*, 108 Or App 247 (1991) (Board can refuse to consider issues on review that are not raised at hearing); *Fister v. South Hills Health Care*, 149 Or App 214 (1997) (absent adequate reason, Board should not deviate from its well-established practice of considering only those issues raised by the parties at hearing); *Karla R. Olsen-Smith*, 69 Van Natta 541, 542 n 1 (2017). Accordingly, consistent with that practice, we decline to address claimant's arguments raised for the first time on Board review.

ORDER

The ALJ's order dated February 8, 2017 is affirmed.

Entered at Salem, Oregon on July 20, 2017