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In the Matter of the Compensation of  
**JERRY L. RABER, Claimant**  
WCB Case No. 14-03049, 13-05969  
ORDER ON REVIEW  
Unrepresented Claimant  
Maher & Tolleson LLC, Defense Attorneys

Reviewing Panel: Members Lanning and Johnson.

Claimant, *pro se*,<sup>1</sup> requests review of Administrative Law Judge (ALJ) Brown's order that upheld the insurer's denial of his new/omitted medical condition claim for C7 cervical root impingement, left sided disc osteophyte complex at C4-5 with left C5 nerve root impingement, and central disc protrusions at C3-4, C5-6, and C6-7. On review, the issue is compensability.

We adopt and affirm the ALJ's order with the following supplementation.<sup>2</sup>

To establish the compensability of his new/omitted medical condition claim, claimant must prove that the claimed conditions exist and that his work event was a material contributing cause of the disability or need for treatment for the claimed conditions. ORS 656.005(7)(a); ORS 656.266(1); *Betty J. King*, 58 Van Natta 977

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<sup>1</sup> Inasmuch as claimant is unrepresented, he may wish to consult the Ombudsman for Injured Workers, whose job it is to assist injured workers in such matters. 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

<sup>2</sup> We acknowledge claimant's arguments and submissions referring to the insurer's claim processing actions. We also note that claimant's hearing had been postponed at the request of claimant, his former attorneys of record, and the insurer's counsel for various reasons (including further development of the record and changes in representation) without objection. However, the issue at hearing and on review is limited to the insurer's above-referenced denial. On review, we are limited to the record developed at hearing. ORS 656.295. To the extent that claimant's arguments and submissions address matters that are not documented in the record submitted at the hearing level, they have not been considered.

Moreover, to the extent that claimant takes issue with actions taken by his former attorneys on his behalf, we lack the authority to address such issues. If claimant has a disagreement with his former attorneys' actions, that disagreement may be a matter for another forum to resolve. *See David M. Williams*, 63 Van Natta 346 (2011); *Joseph M. Deprizio*, 60 Van Natta 488 (2008); *Becky L. Degenhardt*, 54 Van Natta 1189 (2002) (the Board is not the appropriate forum for determining the adequacy of counsel).

(2006); *Maureen Y. Graves*, 57 Van Natta 2381 (2005). Based on the time that elapsed between claimant's accident and the diagnoses of the disputed conditions, compensability is a complex medical question that must be addressed by expert medical evidence. *Barnett v. SAIF*, 122 Or App 279, 283 (1993); *Jerry W. Brooks*, 61 Van Natta 1588, 1590 (2009). Another relevant factor for determining whether expert medical evidence of causation is required includes whether there was any expert testimony that the alleged precipitating event could not have been the cause of the injury. *Uris v. Comp. Dep't*, 247 Or 420 (1967); *Barnett*, 122 Or App at 283.

Here, there is no dispute that claimant was involved in a two-collision motor vehicle accident (MVA) on June 19, 2006, which resulted in the insurer's acceptance of cervical and lumbar strains. (Ex. 1). However, Dr. Rosenbaum and Dr. McNeill, the only physicians who addressed the compensability of the currently claimed cervical conditions, did not attribute the claimed new/omitted medical conditions, or the disability/need for treatment of those conditions, to claimant's work event (*i.e.*, the 2006 MVA). (Exs. 27-12-14, 30).

In sum, the medical evidence does not establish that claimant's work event was a material contributing cause of the disability/need for treatment of the claimed C7 cervical root impingement, left sided disc osteophyte complex at C4-5 with left C5 nerve root impingement, and central disc protrusions at C3-4, C5-6, and C6-7. Therefore, the compensability of claimant's new/omitted medical condition claim has not been established. ORS 656.005(7)(a); ORS 656.266(1). Consequently, we affirm.

#### ORDER

The ALJ's order dated December 15, 2016 is affirmed.

Entered at Salem, Oregon on May 4, 2017