
In the Matter of the Compensation of
FABIOLA SOLORIO-CARDENAS, Claimant
WCB Case No. 18-02126
ORDER ON REVIEW
Unrepresented Claimant
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Lanning and Woodford.

Claimant, *pro se*,¹ requests review of Administrative Law Judge (ALJ) Smith's order that upheld the SAIF Corporation's denial of claimant's injury claim for a low back condition. On review, the issue is compensability.

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

Claimant has submitted additional documents, some of which were not admitted into the record at the hearing. Our review is limited to the record developed by the ALJ. ORS 656.295(5). However, we may remand to the ALJ if we find that the case has been improperly, incompletely, or otherwise sufficiently 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 with due diligence at the time of the hearing; and (3) is reasonably likely to affect the outcome of the case. *Id.*

Here, based on the dates of some of the documents submitted by claimant, it appears that they were unobtainable at the time of the hearing. In any event, consideration of those documents is not reasonably likely to affect the outcome of our decision regarding the compensability of her denied low back condition. Therefore, we conclude that there is no compelling reason to remand to the ALJ for the taking of additional evidence.

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 AND BUSINESS SERVICES
PO BOX 14480
SALEM, OR 97309-0405

Finally, we note that, at the hearing, and on review, claimant expressed dissatisfaction concerning SAIF's processing of her earlier shoulder injury claim.² As explained in the ALJ's order, we reiterate that our decision is limited to claimant's low back claim regarding her December 16, 2017, injury. After conducting our review of this record, we find that, while claimant's December 2017 work injury was a material contributing cause of the disability/need for treatment for her low back condition, that injury combined with preexisting degenerative conditions and the medical evidence establishes that her injury was not the major contributing cause of the disability/need for treatment for her combined low back condition. ORS 656.266(2)(a). Consistently, we affirm the ALJ's determination that claimant's claimed low back condition is not compensable.

ORDER

The ALJ's order dated August 24, 2018 is affirmed.

Entered at Salem, Oregon on May 15, 2019

² Claimant refers to a prior claim for which she states she is seeking compensation for "rotator cuff injuries." To the extent that she is seeking benefits concerning that previous claim, claimant should direct her request to SAIF.