

---

In the Matter of the Compensation of  
**WILLIAM N. ALFORD, Claimant**  
Own Motion No. 03-0008M  
OWN MOTION ORDER REFERRING FOR FACT FINDING HEARING  
Malagon Moore et al, Claimant Attorneys  
Breathouwer & Gilman, Defense Attorneys

Reviewing Panel: Members Langer and Phillips Polich.

The self-insured employer has submitted a “Carrier’s Own Motion Recommendation,” indicating that claimant seeks reopening of his 1976 claim.<sup>1</sup> The employer recommended against reopening the claim.

Claimant sustained a compensable cervical back injury on August 1, 1976. Claimant’s aggravation rights have expired. In response to a Board staff member’s request for clarification regarding whether the request for Own Motion relief pertained to a worsening of an accepted condition or to a “new medical condition” claim, the employer amended its recommendation to include “spinal stenosis and transitional disease” as a part of claimant’s accepted conditions. Claimant disagrees with the employer’s representations, challenge them as “double hearsay.” Moreover, acknowledging the presence of a “significant factual issue,” claimant seeks referral of this dispute for “a fact-finding hearing.” Although disagreeing with claimant’s characterization of its statements, the employer agrees that a referral for a fact-finding hearing is warranted.

Under these circumstances, we consider it appropriate to refer this Own Motion matter to the Hearings Division for an evidentiary hearing. OAR 438-012-0040(3). That hearing may be conducted in any matter that the ALJ deems achieves substantial justice. Following the hearing, the ALJ shall issue a recommendation to the Board within 30 days. In that recommendation, the ALJ shall make findings of fact and conclusions of law regarding the issues arising from claimant’s request for Own Motion relief.

The ALJ is directed to forward to the Board a separate, unappealable recommendation with respect to any Own Motion matters. In addition, if the matter is resolved by stipulation or Disputed Claim Settlement, the ALJ is directed

---

<sup>1</sup> In its Own Motion recommendation, the employer listed claimant’s accepted condition as a “Herniated disc at C6-7.”

to submit a copy of the settlement document to the Board. After issuance of the recommendation and order (or settlement document), the parties should advise the Board of their respective positions regarding the Own Motion matters.

IT IS SO ORDERED.

Entered at Salem, Oregon on March 24, 2003