

In the Matter of the Compensation of
JOSEFINA GARCIA-ALVAREZ, Claimant

WCB Case No. 18-04915

ORDER ON REVIEW

Pancic Law, Claimant Attorneys

Gress, Clark, Young, & Schoepper, Defense Attorneys

Reviewing Panel: Members Woodford and Ousey.

Claimant requests review of Administrative Law Judge (ALJ) Ilias's order that upheld the self-insured employer's denial of her occupational disease claim for bilateral hand, arm and shoulder conditions. On review, the issue is compensability. We affirm.

FINDINGS OF FACT

We adopt the ALJ's "Findings of Fact."

CONCLUSIONS OF LAW AND OPINION

In upholding the employer's denial, the ALJ discounted the opinion of Dr. Whetstone, claimant's attending physician, because the record did not indicate that she had actually examined claimant's elbows or shoulders. Further, the ALJ reasoned that Dr. Whetstone relied on an inaccurate description of claimant's work activities.

On review, claimant contends that the opinion of Dr. Whetstone persuasively establishes the compensability of her occupational disease claim for the claimed conditions. Based on the following reasoning, we disagree.

To establish a compensable occupational disease, claimant must prove that employment conditions were the major contributing cause of the disease. ORS 656.266(1); ORS 656.802(2)(a). The "major contributing cause" is the cause, or combination of causes, that contributed more than all other causes combined. *Dietz v. Ramuda*, 130 Or App 397, 401-02 (1994), *rev dismissed*, 321 Or 416 (1995).

Because of the disagreement between medical experts regarding the compensability of the claimed conditions, the claim presents complex medical questions that must be resolved by expert medical opinion. *Barnett v. SAIF*,

122 Or App 279, 282 (1993). More weight is given to those medical opinions that are well reasoned and based on complete information. *Somers v. SAIF*, 77 Or App 259, 263 (1986).

Dr. Buehler, who examined claimant at the employer's request, noted that claimant had activity-related pain and symptoms in her shoulders, elbows, and thumbs. (Ex. 10a-2). However, he opined that she did not have any conditions caused by her work activities. (Ex. 10a-4).

Dr. Whetstone evaluated claimant to possibly provide a thumb injection. Based on a description of claimant's work activities, Dr. Whetstone concluded (without explanation) that those work activities were the major contributing cause of claimant's thumb, shoulder, and elbow conditions. (Exs. 4, 11-2). In doing so, Dr. Whetstone did not explain how the work activities were injurious, or how claimant developed the claimed conditions. (Ex. 11-2). Without such an explanation Dr. Whetstone's opinion does not persuasively establish that claimant's work activities were the major contributing cause of the claimed conditions. *See, e.g., Ronald L. Pilgrim*, 68 Van Natta 2017, 2018 (2016) (physician's opinion that did not explain how the claimant's work activities caused an occupational disease did not establish the major contributing cause of the claimed occupational disease).¹

Based on the aforementioned reasoning, the record does not establish the compensability of claimant's occupational disease claim. ORS 656.802(2)(a); ORS 656.266(1). Consequently, we affirm.

ORDER

The ALJ's order dated April 18, 2019 is affirmed.

Entered at Salem, Oregon on November 25, 2019

¹ Claimant challenges the persuasiveness of Dr. Buehler, who examined her at the employer's request. However, it is unnecessary for us to address Dr. Buehler's opinion because claimant has not satisfied her burden of proof irrespective of the persuasiveness of Dr. Buehler's opinion. *See Lyle E. Sherburn*, 59 Van Natta 632, 637 (2007).