
In the Matter of the Compensation of
KRISTEN A. WOOD, Claimant
WCB Case No. 19-05340
ORDER ON REVIEW
Brian L Pocock, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Woodford and Ousey.

Claimant requests review of Administrative Law Judge (ALJ) McWilliams's order that upheld the SAIF Corporation's denial of her new/omitted medical condition claim for a T6-7 paracentral disc protrusion. On review, the issue is compensability. We affirm.

FINDINGS OF FACT

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

CONCLUSIONS OF LAW AND OPINION

The ALJ considered the opinion of Dr. Morgan, a treating pain specialist, to lack sufficient explanation to persuasively support the compensability of the T6-7 disc protrusion. On review, claimant disagrees with the ALJ's analysis of Dr. Morgan's opinion. Based on the following reasoning, we affirm.

To prevail on her new/omitted medical condition claim, claimant must prove that the claimed condition exists, and that the May 20, 2018, work injury was a material contributing cause of the disability/need for treatment of that condition.¹ See ORS 656.005(7)(a); ORS 656.266(1); *Betty J. King*, 58 Van Natta 977, 977 (2006); *Maureen Y. Graves*, 57 Van Natta 2380, 2381 (2005).

Because of the conflicting physicians' opinions regarding the cause of the disability/need for treatment of the T6-7 disc protrusion, this claim presents a complex medical question that must be resolved by expert medical opinion. See *Barnett v. SAIF*, 122 Or App 279, 282 (1993); *Mathew C. Aufmuth*, 62 Van Natta 1823, 1825 (2010). More weight is given to those medical opinions that are well reasoned and based on complete information. See *Somers v. SAIF*, 77 Or App 259, 263 (1986); *Linda E. Patton*, 60 Van Natta 579, 582 (2008).

¹ The record establishes, and the parties do not dispute, the existence of the claimed T6-7 disc protrusion.

Dr. Morgan concluded that it was probable that claimant developed a T6-7 disc protrusion due to her May 2018 work injury and a work-related aggravation of that injury in September 2018. (Ex. 46-1). She reasoned that it would be unusual for someone of claimant's age to develop thoracic disc protrusions solely from degenerative disc disease. (*Id.*) Dr. Morgan further noted that the persistence of claimant's symptoms was more consistent with a disc injury than a sprain or strain, which likely would have resolved within 60 to 90 days of the injury. (*Id.*)

In contrast, Dr. Morrissey, an orthopedic surgeon who evaluated claimant at SAIF's request, concluded that claimant's May 2018 work injury was not a material contributing cause of disability or need for treatment for the claimed T6-7 disc protrusion. (Ex. 41-11). He reasoned that, following the work injury, there were no radicular pain symptoms reported which would be relatable to a T6-7 disc protrusion. (*Id.*) Dr. Morrissey explained that the disc protrusion was part of the preexisting thoracic spondylosis which was present in multiple levels of claimant's thoracic spine. (Ex. 41-8, -11). Based on his review of claimant's MRI report, Dr. Morrissey noted that the described morphology and the degree of canal narrowing suggested that the T6-7 disc protrusion was likely arthritic, rather than acute. (Ex. 41-9).

Dr. Sherman, an orthopedic surgeon who consulted with claimant regarding potential surgery, considered claimant to have multilevel degenerative disc disease and multiple disc protrusions without major spinal cord or nerve root impingement. (Ex. 34-3). He did not indicate that claimant had disability or need for treatment of a T6-7 disc protrusion caused in material part by the May 2018 work injury. (*Id.*) Instead, he explained that claimant did not have classic radicular symptoms, and that claimant's thoracic back pain was likely a combination of a strain and the degenerative process. (*Id.*)

Based on our review of the medical opinions, we are not persuaded that Dr. Morgan's opinion establishes that claimant's work injury was a material contributing cause of disability or need for treatment for the T6-7 disc protrusion. She did not address the opinions of Drs. Morrissey and Sherman regarding the lack of radicular symptoms consistent with an acute T6-7 disc protrusion, and she did not sufficiently address their opinions concerning the contribution of claimant's thoracic spondylosis/degenerative disc disease to her thoracic pain symptoms. *See Janet Benedict*, 59 Van Natta 2406, 2409 (2007), *aff'd without opinion*, 227 Or App 289 (2009) (medical opinion less persuasive when it did not address contrary opinions); *Gary H. Grogan*, 54 Van Natta 897 (2002) (even if the standard of proof was "material contributing cause" and the "weighing requirement" of *Dietz v.*

Ramuda, 130 Or App 397, 401 (1994), *rev dismissed*, 321 Or 416 (1995), did not apply, causation opinions supporting the claim were considered unpersuasive for not mentioning or discounting the claimant's preexisting degeneration where an examining physician had identified the degeneration as the major cause of the claimant's low back condition). Further, in the absence of a response to the abovementioned opinions, Dr. Morgan's conclusion that the T6-7 disc protrusion was a result of the May 2018 work injury, was inadequately explained and conclusory. *See Moe v. Ceiling Sys., Inc.*, 44 Or App 429, 433 (1980) (rejecting unexplained or conclusory opinion).²

Accordingly, based on the aforementioned reasoning, we affirm the ALJ's order upholding SAIF's denial of the new/omitted medical condition claim for a T6-7 disc protrusion.

ORDER

The ALJ's order dated May 13, 2020, is affirmed.

Entered at Salem, Oregon on December 10, 2020

² We acknowledge that Dr. Morrissey did not personally review the images from claimant's thoracic MRI, while Dr. Morgan did personally review those images. However, Dr. Morrissey's conclusions were consistent with the findings of Dr. Gupta, the interpreting radiologist, and Dr. Sherman, both of whom personally reviewed claimant's thoracic MRI. (Exs. 31, 34). Under such circumstances, we decline to discount Dr. Morrissey's opinion for not personally reviewing the thoracic MRI. *See, e.g., Robert Brakel*, 61 Van Natta 2584, 2586-87 (2009) (opinion of physician who did not personally review imaging found persuasive because the physician's opinion was supported by the record).