



Brown v. SAIF: The Oregon Court of Appeals overhauls legal precedent on definition of “compensable injury” in ORS Chapter 656

By Nathan R. Goin • May 20, 2014

The Oregon Court of Appeals recently departed from established legal precedent after adopting an “incident focused” approach to defining a worker’s “compensable injury.” On May 7, 2014 the Oregon Court of Appeals issued its decision in *Royce L. Brown, Sr., vs. SAIF Corporation*, ___ P.3d ___, 2014, 2014 WL 1819826 (2014) (case number to be assigned), reversing decisions by the Workers’ Compensation Board and the ALJ below that upheld SAIF Corporation’s denial of the worker’s combined condition. The dispute first arose when SAIF Corporation issued a “ceases” denial of the worker’s accepted low back strain, which had combined with a pre-existing degenerative condition. At the time of trial, the worker offered medical evidence suggesting the industrial injury pathologically worsened his degenerative condition; however, acceptance of the degenerative condition itself was never sought.

In reviewing the matter, the administrative law judge ultimately concluded that, under a combined condition analysis, resolution of the accepted strain condition was the pivotal question for determining resolution of the overall claim. Although the worker’s pre-existing condition may remain symptomatic following the industrial incident, absent an acceptance of the preexisting condition itself, resolution of the accepted strain amounted to a resolution of the work related injury where a combined condition was accepted.

On appeal, the Court held there was no statutory authority to limit a “compensable injury,” as defined by ORS 656.005(7)(a), to conditions that had been specifically accepted. In taking this stance, the Court adopted an “incident focused” approach to defining work related injuries. Resolution of the accepted medical condition was therefore found to be seemingly irrelevant for making a determination as to whether the “compensable injury” remains the major contributing cause of the worker’s disability and need for treatment of the combined condition. Previously, the employer had to show the accepted condition(s) ceased to be the major contributing cause of the worker’s disability and need for treatment. Under *Brown*, the employer must now prove the actual injury incident is no longer the major contributing cause.

Unfortunately, *Brown* creates substantial ambiguity as to the nature and extent of an insurer’s processing obligations when attempting to engage in combined condition processing. The practical impact of *Brown* is yet to be

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Nathan Goin is an attorney at Reinisch Wilson Weier PC. He may be reached at 503.452.7257 or nathang@wwwcomplaw.com.

Brown v. SAIF (continued)

determined, and may implicate a variety of processing decisions ranging from the termination of time loss benefits to the provision of medical services. In the companion case of *SAIF Corporation v. Francisco M. Carlos-Macias*, ___ P.3d ___, 2014 WL 1819744 (2014) (case number to be assigned), the court extended Brown's definition of "compensable injury" to the provision of diagnostic services. Under this line of reasoning, an insurer's responsibility to process payment for diagnostic services now includes any diagnostic service requested that is necessary to determine the extent of the worker's "occupational injury." Whereas the traditional standard hedged compensable diagnostic services to only those services utilized to determine the extent of the accepted condition.

The impact of *Brown* is difficult to surmise. However, this decision ultimately does not change what we are able to do; it just alters the way we do it. Plans are presently in motion to petition the Oregon Supreme Court for review of the decision. Unfortunately, the ambiguity of *Brown* will likely produce ongoing litigation in the interim regarding the nature and extent of an insurer's processing obligations.

For more information regarding the *Brown* decision and its effect on claims processing, contact any of the attorneys in our Oregon practice group. ■

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