



Material Cause Standard Applied to Medical Services in Oregon Combined Condition Claim

By Karen S. Varney ■ November 18, 2019

On remand from the Oregon Court of Appeals, the Oregon Workers' Compensation Board recently found that although a combined condition had been accepted and a current combined condition denial issued, the material cause standard applied for determining compensability of a diagnostic MRI.

In *Daniel B. Slater*,¹ the worker's claim was accepted for a medial collateral ligament strain and left medial meniscus tear combined with preexisting left knee osteoarthritis. SAIF subsequently denied the current combined condition. An MRI was then recommended to confirm claimant's ACL was intact, to evaluate the preexisting and non-compensable arthritis, to confirm there was no new injury and to evaluate how much of the meniscus was left. The Board initially found that because the record established a combined condition, the major cause standard applied when determining compensability of the MRI and upheld the denial of the MRI.

The Court remanded and found that if diagnostic medical services were directed to one of the originally accepted conditions, then claimant only need prove the service was directed to a condition caused in material part by the injury.² However, if the medical services were directed to either a combined or consequential condition, the major cause standard applied.

On remand, the Board referenced *Garcia-Solis v. Farmers Ins. Co.*³ (which was decided two years after the Court of Appeals decision in *Daniel B. Slater*, but before this Board decision in *Daniel B. Slater*) noting that the "compensable injury" as referenced in the first and second sentences of ORS 656.245(1) (a) means the "work accident," does not mean medical conditions and is not limited to conditions that the carrier has accepted at the time the medical services were sought.

The Board then concluded the medical evidence demonstrated the MRI was "for" or "directed to" the accepted meniscal tear and thus compensable even though the MRI would also evaluate claimant's non-compensable preexisting arthritis. It reasoned that since the meniscal tear was an accepted condition, it was also a condition caused in material part by the work injury and the MRI was compensable. It explained the statute does not limit compensability of medical services simply because those services also provide incidental benefits that help or treat non-compensable medical conditions.

The material cause standard applied for determining compensability of a diagnostic MRI.

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Daniel B. Slater (continued)

Therefore, we cannot assume the major cause standard automatically applies when a claim is accepted as a combined condition.

The attorneys at Reinisch Wilson Weier PC are available to discuss specific scenarios and provide assistance in determining the legal standard for determining compensability in your medical services claims.

¹ *Slater v. SAIF*, 287 Or App 84 (2017).

² *Daniel B. Slater*, 71 Van Natta 962 (2019).

³ *Garcia-Solis v. Farmers Ins. Co.*, 365 Or 26 (2019).

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