

Denbo, Marc

DEPARTMENT

Reassumption of Jurisdiction (RCW 51.52.060)

Where the worker appeals a Department letter, the Department may reassume jurisdiction by modifying, reversing, or holding the appealed letter in abeyance within 60 days of its issuance. The Department cannot reassume jurisdiction by issuing an order that only reiterates the decision that was appealed.***In re Marc Denbo, BIA Dec., 25 13319 (2025)*** [*Editor's Note: The Board's decision was appealed to superior court under Pierce County Cause No. 25-2-13935-8.*]

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**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

IN RE: MARC S. DENBO

Docket No. 25 13319

Claim No.: ZB60927

DECISION AND ORDER

In 2023, Marc Denbo suffered an industrial injury while working for Tradesman International, LLC (Tradesman). On November 18, 2024, the Department denied responsibility under the claim for post-traumatic stress disorder. On March 4, 2025, the Department affirmed the November 18, 2024 order. Tradesman contends the Department lacked authority to issue the March 4, 2025 order because the November 18, 2024 order was final and binding. The Department contends there was a timely protest to the November 18, 2024 order, so the March 4, 2025 order was legal.

Tradesman moved for summary judgment. After reviewing the motion for summary judgment and the Department's response, our industrial appeals judge issued a Proposed Decision and Order in which he reversed the March 4, 2025 order and remanded because the Department lacked authority to issue the March 4, 2025 order, because the issue of post-traumatic stress disorder is currently on appeal at this Board under a different docket number.

The Department filed a Petition for Review. The Department argues that Tradesman's motion for summary judgment should've been denied because there was a timely protest to the November 18, 2024 order. Therefore, the March 4, 2025 order was proper. After careful consideration of the record and the law, we agree with our hearings judge. We issue this Decision and Order to clarify a few matters as indicated below. The Department order dated March 4, 2025 is **REVERSED AND REMANDED** with direction to issue an order and vacate the November 18, 2024 order.

DISCUSSION

We must first address the issue of jurisdiction. The parties did not stipulate to facts supporting our jurisdiction. And the Proposed Decision and Order did not fully address our jurisdiction. We have reviewed the Department claim file to determine the history of this claim and our jurisdiction.¹ On June 14, 2023, Mr. Denbo filed an application for benefits for his June 6, 2023 industrial injury. On July 21, 2023 the Department issued an order in which it allowed this claim. On March 4, 2025, the Department issued the order on appeal. On March 4, 2025, Mr. Denbo filed a protest to the March

¹ See, *In re Mildred Holzerland*, BIIA Dec., 15,729 (1965).

1 4, 2025 order, which the Department forwarded to the Board as a direct appeal. Based on this review,
2 we hold that we have jurisdiction over the parties and subject matter of this appeal.

3 Next, we must address some of the history of this claim. This claim has nine pending appeals
4 and a couple of those appeals have led to some confusion around the issue of post-traumatic stress
5 disorder (PTSD). To help untangle this matter and clarify our decision, we have reviewed the
6 Department and Board records and will take judicial notice of actions taken on this claim.² The parties
7 summary judgment pleadings, Department record, and Board record show the following relevant
8 facts.
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12 On June 3, 2024, the Department issued an order in which it accepted responsibility under the
13 claim for PTSD and major depressive disorder. On June 5, 2024, Tradesman protested the June 3,
14 2024 order.
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17 On November 15, 2024, the Department issued a letter in which it stated that major depressive
18 disorder and PTSD were going to be denied under separate cover. On November 15, 2024, the
19 Department also issued an order in which it denied major depressive disorder. This order did not
20 address PTSD.
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23 On November 15, 2024, Mr. Denbo filed an appeal to the Board of Industrial Insurance Appeals
24 in which he stated, "I'm asking for my [d]iagnosis of major depressive disorder and PTSD to be
25 allowed" This appeal was assigned two different docket numbers because it referenced an
26 order and letter of the same date. The appeal to the letter was assigned Docket No. WC-25-01525.
27 The appeal to the order was assigned Docket No. 24 22513.
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30 On November 18, 2024, the Department issued an order in which it noted that it reconsidered
31 the order dated June 3, 2024, and denied responsibility for the condition diagnosed as PTSD. On
32 that same day, Mr. Denbo sent a secure message to the Department with the subject noted as "PTSD
33 final 06-03-2024" and wrote, "I was just curious how the acceptance of PTSD and major depressive
34 disorder was accepted 6-3-24 and it says this order becomes final 60 days from the date it is
35 communicated to you it's been more than 60 days I don't understand how things can change legally."
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38 On February 25, 2025, Mr. Denbo sent a secure message with the subject "Tacoma
39 psychology letter" and stated "This is the letter I got from Dr. Solick my psychiatrist. I'm trying to find
40 out where the protest for the denial of the PTSD and would like to have it added back to my claim."
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² *In re CDK Construction Services*, BIIA Dec., 19 W1143 (2021).
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1 On the same day, Mr. Denbo sent another secure message with the subject "denial of PTSD" and
2 stated "I want to protest the denial of PTSD."

3 On March 4, 2025, the Department issued the order on appeal. It affirmed the November 18,
4 2024 order that denied responsibility for PTSD. On March 4, 2025, Mr. Denbo protested the March
5 4, 2025 order, and the Department forwarded the protest to this Board as an appeal.
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8 **Department letters are appealable if they contain a decision.**

9 Tradesman and the Department argue that a Department letter cannot be appealed; only an
10 order with appeal language can be appealed. As found by our judge, the parties are incorrect.

11 Any action or decision written by the Department can be appealed; statutory appeal language
12 is only mandatory for the decision to become final and binding.³ On November 15, 2024, the
13 Department issued a letter in which it stated the conditions diagnosed as major depressive disorder
14 and PTSD were to be denied under a separate order. The Department issued an order on the same
15 day, but it only addressed major depressive disorder. At that time, the only document addressing
16 PTSD was the November 15, 2024 letter. Mr. Denbo filed an appeal and requested acceptance of
17 both major depressive disorder and PTSD. His appeal clearly showed he disagreed with the letter
18 and order.
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20 Docket No. WC-25-01525 was assigned to his appeal addressing both major depressive
21 disorder and PTSD as stated in the November 15, 2024 letter; and Docket No. 2422513 was assigned
22 to his appeal addressing major depressive disorder as stated in the November 15, 2024 order.
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28 **Further Action After an Appeal**

29 Our hearing judge was also correct when he found the Department did not have jurisdiction to
30 issue the November 18, 2024 order that denied PTSD, which also meant the Department did not
31 have authority to affirm the order on March 4, 2025.
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33 While the Department had authority to further adjudicate other issues on the claim, it lacked
34 the authority to address the specific issues on appeal.⁴ When a decision is on appeal, the
35 Department's only options are to modify, reverse, change, or hold the decision in abeyance within 60
36 days of its order; it cannot issue a further order that merely reiterates the decision on appeal.⁵
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38 Docket No. WC-25-01525 specifically addresses the issues of major depressive disorder and
39 PTSD as an appeal to the November 15, 2024 letter. The Department order in the present docket
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45 ³ *In re Maid-For-You*, BIIA Dec., 88 4843(1990).

46 ⁴ *In re Larry Nelson*, BIIA Dec., 89 0257 (1990).

47 ⁵ RCW 51.52.060.

1 specifically, and solely, addresses the issue of PTSD. Therefore, the November 18, 2024 and
2 March 4, 2025 orders are nullities.⁶

3 In addition, Docket No. 24 22513 assigned to the appeal of the November 15, 2024 order
4 covers major depressive disorder, which is duplicative of Docket No. WC-25-01525. We will issue
5 an order vacating the order granting appeal under Docket No. 24 22513. As a result, the issues of
6 major depressive disorder and PTSD will continue on appeal solely under Docket No. WC-25-01525.
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9 **DECISION**

10 In Docket No. 25 13319, the claimant, Marc S. Denbo, filed a timely protest with the Department
11 of Labor and Industries. The Department forwarded it to the Board of Industrial Insurance Appeals
12 as an appeal. The claimant appeals a Department order dated March 4, 2025. In this order, the
13 Department affirmed an order dated November 18, 2024, in which it denied post-traumatic stress
14 disorder. This order is incorrect and is reversed. This matter is remanded to the Department with
15 direction to issue an order and vacate the November 18, 2024 order.
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20 **FINDINGS OF FACT**

- 21 1. Marc Denbo filed an application for benefits with the Department of Labor
22 and Industries on June 14, 2023, alleging he sustained an industrial injury
23 on June 6, 2023, during the course of his employment with Tradesman
24 International, LLC. The Department allowed the claim and paid benefits.
25 On November 18, 2024, the Department issued an order in which it
26 denied responsibility for the condition diagnosed as post-traumatic stress
27 disorder. On November 18, 2024, Mr. Denbo sent a secure message that
28 the Department considered a protest to the November 18, 2024 order.
29 On March 4, 2025, the Department issued an order in which it affirmed
30 the order dated November 18, 2024, which denied responsibility for the
31 condition diagnosed as post-traumatic stress disorder. Mr. Denbo filed a
32 protest from this decision on March 4, 2025, and the Department
33 forwarded the protest as an appeal to the Board of Industrial Insurance
34 Appeals. The Board issued an order on March 25, 2025, granting the
35 appeal under Docket No. 25 13319.
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- 37 2. On November 15, 2024, the Department issued a letter in which it stated
38 that it would deny the conditions diagnosed as major depressive disorder
39 and post-traumatic stress disorder.
- 40 3. On November 15, 2024, Mr. Denbo filed an appeal with this Board and
41 stated that he wanted both major depressive disorder and post-traumatic
42 stress disorder allowed on his claim. This appeal was granted and
43 assigned Docket No. WC-25-01525.
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46 ⁶ *In re Richard Wagner*, BIIA Dec., 88 0962 (1988)
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- 1 4. On November 18, 2024, the Department issued an order in which it
2 denied responsibility for the condition diagnosed as post-traumatic stress
3 disorder. No other issues were addressed in the order.
- 4 5. On November 18, 2024, Mr. Denbo sent a secure message to the
5 Department, and the Department considered this message a protest to
6 the November 18, 2024 order.
- 7 6. On March 4, 2025, the Department issued an order in which it affirmed
8 the order dated November 18, 2024.
- 9 7. The pleadings and evidence submitted by the parties demonstrate that
10 there is no genuine issue as to any material fact.

11 **CONCLUSIONS OF LAW**

- 13 1. The Board of Industrial Insurance Appeals has jurisdiction over the parties
14 and subject matter in this appeal.
- 15 2. The appeal may be decided as a matter of law as contemplated by CR 56.
- 16 3. The Department did not have the authority to adjudicate the issue of
17 post-traumatic stress disorder in the November 18, 2024 order because
18 the issue of post-traumatic stress disorder was already under appeal
19 before this Board. RCW 51.52.060.
- 20 4. The Department did not have the authority to affirm the November 18,
21 2024 order in the March 4, 2025 order because the issue of post-traumatic
22 stress disorder was already under appeal before this Board.
23 RCW 51.52.060
- 24 5. The Department order dated March 4, 2025, is reversed and the
25 Department is directed to cancel its order dated November 18, 2024.

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6. By separate order, we will issue an order vacating the order granting appeal under Docket No. 24 22513. The question of whether Mr. Denbo developed major depressive disorder and PTSD as a proximate cause of his industrial injury will continue on appeal under Docket No. WC-25-01525.

Dated: November 25, 2025.

BOARD OF INDUSTRIAL INSURANCE APPEALS



HOLLY A. KESSLER, Chairperson



ISABEL A. M. COLE, Member



ROBERT A. BATTLES, Member

Addendum to Decision and Order
In re: Marc S. Denbo
Docket No. 25 13319
Claim No: ZB60927

Appearances

Claimant, Marc S. Denbo, Self-Represented

Employer, Tradesman International, LLC, by Javelin Law, PLLC, per Madison Musgrave

Department of Labor and Industries, by Office of the Attorney General, per Rachel M. Van-Strayhorn

Petition for Review

As provided by RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review and decision. The employer filed a timely Petition for Review of a Proposed Decision and Order issued on July 23, 2025, in which the industrial appeals judge reversed the Department order dated March 4, 2025.

Evidentiary Rulings

The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no prejudicial error was committed. The rulings are affirmed.