

Miranda, Mario

BENEFITS PENDING APPEAL

Where there was no question that the worker was entitled to treatment for a condition causally related to an injury under the jurisdiction of the Department, and the only dispute was over which injury and which employer was responsible for the condition, the worker's receipt of benefits should not have been delayed by an employer's appeal. The Department was ordered to provide treatment and compensation during the pendency of the appeal. ...*In re Mario Miranda, BIIA Dec., 40,116 (1972)* [*Editor's note: Consider the effect of 2008 legislative changes regarding payment of benefits pending appeal.*]

JOINDER

Multiple claims and employers

Where a dispute arises as to whether the condition for which the worker requires medical treatment is due to one of two separate injuries with two separate employers, it is proper to join the non-appealing employer as a party. ...*In re Mario Miranda, BIIA Dec., 40,116 (1972)*

Scroll down for order.

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

1 **IN RE: MARIO MIRANDA**) **DOCKET NO. 40,116**
2)
3) **ORDER GRANTING APPEAL, JOINING**
4) **PARTIES, AND DIRECTING PRESENTATION**
5 **CLAIM NO. G-137041**) **OF EVIDENCE**
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7 The employer's notice of appeal in the above-entitled matter came on for consideration
8 before the Board of Industrial Insurance Appeals this day.
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10 The files of the Department of Labor and Industries show that the claimant, on July 1, 1968,
11 sustained an injury to his right knee while employed by The Boeing Company. His industrial
12 insurance claim, based upon that injury, was allowed by the Department and assigned Claim No. F-
13 694905. It was eventually closed with a permanent partial disability award for a 30% loss of
14 function of the right leg at or above the knee.
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17 On January 31, 1971, while employed by Northwest Steel Rolling Mills, Inc., the appealing
18 party herein, the claimant again injured his right knee. He filed an industrial insurance claim based
19 upon this incident, which was allowed by the Department and assigned Claim No. G-137041.
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22 On November 29, 1971, the claimant was examined by an orthopedic surgeon who reported
23 that the claimant was in need of surgery to his right knee but, further, that it would be impossible to
24 determine before surgical exploration whether the required surgical repair was attributable to his
25 1968 injury, Claim No. F-694905, or to his 1971 knee injury, Claim No. G137041.
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28 On December 14, 1971, the Department entered an order reciting that "there is a question
29 as to whether the present condition and need for surgery is due to the injury of January 31, 1971,
30 assigned claim No. G-137041, charged to Northwest Steel Rolling Mills, Inc., or the injury of July 1,
31 1968, assigned claim No. F0690905, charged to The Boeing Airplane Company...", and directing
32 that the claimant be provided "with the recommended surgery and due compensation..." and that
33 the same be charged on an "interlocutory" basis to Claim No. G-137041.
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37 On December 30, 1971, the Northwest Steel Rolling Mills, Inc. filed its notice of appeal with
38 this Board, in which it does not contest the claimant's need for surgery or entitlement to
39 compensation from the Department, but does contest the Department's right to charge the
40 Northwest Steel Rolling Mills, Inc., cost experience therefor.
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43 From its consideration of this case, the Board has concluded that it is apparent that the
44 claimant is in need of medical treatment for a condition causally related to an industrial injury under
45 the jurisdiction of the Department of Labor and Industries. The only issue raised by the employer
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1 herein, Northwest Steel Rolling Mills, Inc., the employer involved in Claim No. G-137041, or that
2 could be raised by The Boeing Company, the employer involved in Claim No. F-694905, is which
3 employer's cost experience should be charged by reason of claimant's need for medical attention.
4 It is further apparent that in order to decide this question, The Boeing Company should be joined as
5 a party to this appeal.
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9 Now, therefore, it is hereby ORDERED that the above employer's appeal be granted, limited
10 to the issue as to whether the claimant's need for surgery and attendant compensation to his right
11 knee is attributable to his injury of July 1, 1968, Claim No. F-694905, charged to The Boeing
12 Company, or to his injury of January 31, 1971, Claim No. G-137041, charged to Northwest Steel
13 Rolling Mills, Inc.
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16 It is further ORDERED that The Boeing Company be made a party to this appeal.
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18 It is further ORDERED that the Department of Labor and Industries be, and it is hereby
19 directed to provide the claimant with required medical treatment and such compensation as he may
20 be entitled to as a disabled workman.
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22 Dated this 7th day of January, 1972.
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24 BOARD OF INDUSTRIAL INSURANCE APPEALS

25
26 /s/ _____
27 ROBERT C. WETHERHOLT Chairman

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29 /s/ _____
30 R.H. POWELL Member

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32 /s/ _____
33 R.M. GILMORE Member
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