

Case: *Jorge Osobampo vs. Icicle Seafoods, Inc. and Seabright Insurance Company*, Alaska Workers' Comp. App. Comm'n Dec. No. 181 (April 22, 2013)

Facts: Jorge Osobampo (Osobampo) worked for Icicle Seafoods, Inc. (Icicle), at its seafood processing facility in Petersburg in 2004 and 2005. He stated that he stopped working for Icicle in late August 2005 because he was suffering worsening back pain. He filed workers' compensation claims in November 2006 and November 2009 for injuries to his back, shoulders, and arms. Osobampo had a history of neck, back, and shoulder complaints dating back to 1990 and 1998, but he did not disclose these prior injuries to two of his treating doctors, to the employer's medical evaluators, and to the second independent medical evaluator. The board awarded Osobampo temporary total disability (TTD) benefits from August 24, 2005, through September 24, 2005, but denied him additional TTD benefits, and denied him medical costs due to a lack of supporting documentation. Osobampo appeals.

Applicable law: AS 23.30.185 provides that TTD benefits are paid "during the continuance of the disability" but not past "the date of medical stability."

AS 23.30.120(a), presumption of compensability and related case law.

Issues: Did the board have substantial evidence to deny TTD after September 24, 2005? Did the board abuse its discretion in denying medical costs because of a lack of supporting documentation?

Holding/analysis: The commission observed that "the quality of Osobampo's briefing impedes our ability to understand his arguments and deal with the issues presented. He provides no legal authority and his arguments are cursory and undeveloped." Dec. No. 181 at 10.

The commission concluded that substantial evidence supported that Osobampo was not entitled to TTD after September 24, 2005, especially because the board's finding that Osobampo was not completely credible was binding on the commission. Four doctors who treated or evaluated Osobampo concluded that when he discontinued his employment with Icicle in late August 2005, his cervical condition was disabling for approximately 30 days. Some of the same doctors also agreed that Osobampo's pre-existing medical conditions were not permanently aggravated by that employment. The board concluded that Osobampo was not credible when he maintained that the medical providers/evaluators did not ask him about his medical history, specifically his history of work-related injuries. Thus, the board gave less weight to any attribution of causation to his employment with Icicle, absent a taking of a full medical history.

The board found that Osobampo could obtain reimbursement for medical bills and expenses he incurred in the August-September 2005 timeframe when he was entitled to TTD benefits, but Osobampo did not provide evidence of any bills or expenses from that timeframe. The commission concluded that the board rightly concluded that it would be inequitable to allow the record to remain open so that Osobampo could file that evidence post-hearing, given that Osobampo gave no reason why he had not filed copies of his medical bills before the hearing.