

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

WST

Case No. LAO 600 962

JAFFER HAMOOD,

Applicant

vs.

VALLEY HOSPITAL MEDICAL CENTER;
UNIHEALTH AMERICA,

Defendants.

ORDER GRANTING PETITION TO
REOPEN
AND SUPPLEMENTAL FINDINGS
AND AWARD

Petition to Reopen for New and Further Disability having been filed August 13, 1993, all parties having appeared and the matter having been regularly submitted, the Honorable SAMUEL L. SOSNA, JR., Presiding Workers' Compensation Judge, now makes his Order Granting Petition to Reopen and Supplemental Findings and Award as follows:

IT IS ORDERED that Petition to Reopen filed herein August 13, 1993, be and it hereby is granted.

FINDINGS OF FACT

1. The injury did cause new and further permanent disability to the lower back.
2. The injury to the lower back caused an additional permanent disability of 4:2% at \$ 140.00 per week, in the total sum of \$3,150.00 as set forth in Opinion on Decision.
3. The injury did not cause new and further temporary disability.
4. Applicant reasonably, actually and necessarily incurred expense to prove a contested case and for medical services to cure or relieve from the effects of this injury payable in amounts to be adjusted between the parties, jurisdiction reserved.

1 5. The reasonable value of the services of applicant's attorney is \$450.00
2 payable to Kim Pearman.

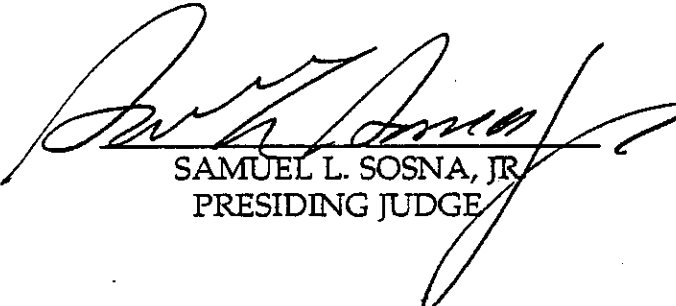
3 A W A R D

4 AWARD IS MADE in favor of JAFFER HAMOOD against UNIHEALTH
5 AMERICA of permanent disability in accordance with Finding 2 above, less attorney
6 fees in accordance with Finding 5 above; together with reimbursement of self-
7 procured medical costs and medical-legal in accordance with Finding 4 above.

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13 DATED: DEC 13 1994

14 Service by mail on parties
15 as shown on the Official Address
16 Record.

17 BY: *Aida Dis*


SAMUEL L. SOSNA, JR.
PRESIDING JUDGE

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JAFFER HAMOOD,

VS.

VALLEY HOSPITAL MEDICAL
CENTER; UNIHEALTH AMERICA,

PRESIDING WORKERS' COMPENSATION JUDGE: SAMUEL L. SOSNA, JR.

DATE OF INJURY:

MARCH 4, 1991

DATED: DEC 13 1994

OPINION ON DECISION

This matter comes on at the instance of applicant's Petition to Reopen by which it is alleged the extent of permanent disability found March 4, 1991 has increased from 23:0% to something greater. Applicant implicitly seeks further temporary disability, a point which will be addressed in this Opinion, Minutes of Hearing notwithstanding, together with temporary disability indemnity from the date of his first post-award medical examination to March 30, 1994, attorney's fees, and reimbursement of lien claims for medical-legal litigation costs as well as treatment cost.

With regard to the matter of reopening, increase in permanent disability as well as necessity for other indemnities may amount to good grounds, and based upon the testimony of the applicant, together with a reading of medical reports on each side of the case, I believe it should be found that cause indeed does exist for reopening, and that there has been an increase in extent of permanent disability.

With respect to the question of permanent disability, it is noted that the medical report of Dr. Fredlander, while thorough and detailed, seems to the writer to be internally inconsistent, particularly in that it describes increased symptoms inconsistent with examination results, and although that examiner opined there was no increase disability on any basis, admitted as well there had been an increase in symptoms.

Yet that view alone does not by itself necessarily led to the conclusion that the opinion of Dr. Roback should be taken at full face value, since his report of detail of examination and description of subjective symptoms is inconsistent with applicant's own testimony on the point. Therefore, and based heavily on applicant's description of condition, it should be found that no increase of disability affects the neck but that subjective symptoms arising to the level of constant slight-to-moderate in degree should form the basis of rating disability affecting the low back.

JAFFER HAMOOD

LAO 600962

DATE:

Therefore, since the neck disability had not changed since the 1991 Award, but the lower back disability has, permanent disability should be based on the following:

18.1 - 30 - 56 D - 25 - 27:2

which should describe disability in this case, equivalent to \$15,120.00 at appropriate benefit rate, against which the previous award should stand as a deduction, resulting in an increased disability to the extent of 4.2%, equivalent in these proceedings to additional indemnity in the sum of \$3,150.00 which should be the additional award in this case, less attorney fees in the reasonable sum of \$450.00 payable to Kim Pearman on that account.

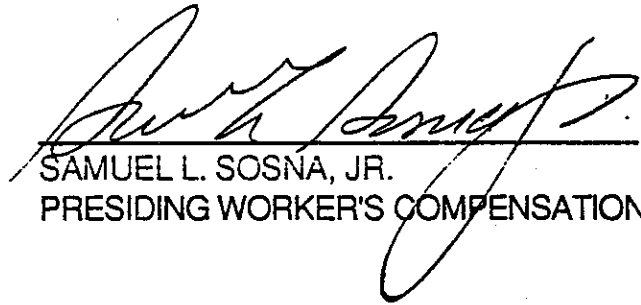
With regard to the claim of further temporary disability and indemnity therefore, it is noted applicant has continued his regular work and its duties, unchanged, since the March, 1991 initial award, and it therefore cannot be found that additional temporary disability pertains. Thus, none should be found.

With regard to the final matters of lien claims, both medical-legal costs as well as treatment, it is noted that the original Award in this case provided for continuing medical care, as reasonably necessary, to the neck and back. And in this regard Dr. Freedlander's opinion is likewise apparently less reliable, for on the one hand he recommends certain modalities of continuing treatment, while on the other reports the applicant claimed the therapy prescribed by Dr. Roback was of no effect whatever. This is contrasted with applicant's testimony forthrightly that the care prescribed was taken and that it was indeed helpful to him. In fact, he said his condition is now such, and has pertained for so long, that he would welcome the modality of surgical intervention.

Therefore, it should be found that the medical care accorded by treatment facilities designated, including pharmaceutical providers, should be reimbursed pursuant to appropriate guidelines, where applicable, subject to adjustment between the parties or further orders of the Court. Concerning medical-legal costs, there is no evidence nor showing in the official file that examinations and reporting was superfluous, redundant, or obtained not in good faith, and those costs, likewise, should be reimbursed pursuant to applicable guidelines, if any.

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DATE:

Let Award and Orders issue accordingly.



SAMUEL L. SOSNA, JR.
PRESIDING WORKER'S COMPENSATION JUDGE

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