Vandorn, Iris

SUBSEQUENT CONDITION TRACEABLE TO ORIGINAL INJURY

Injury sustained en route from vocational appointment

A new injury, suffered when the worker is involved in an auto accident on the way back from a required vocational appointment, is covered. The new injury is related to the original injury and is a compensable consequence of the original injury. ***….In re Iris Vandorn*, BIIA Dec., 02 11466 (2003)**

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BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON

IN RE: IRIS R. VANDORN	**DOCKET NO. 02 11466**
CLAIM NO. P-105584	**DECISION AND ORDER**

APPEARANCES:

Claimant, Iris R. Vandorn, by
Law Office of Charles T. Conrad, P.S., per
Charles T. Conrad

Employer, North Star Enterprises, Inc.,
None

Department of Labor and Industries, by
The Office of the Attorney General, per
Carol O. Davis, Assistant

The claimant, Iris R. Vandorn, filed an appeal with the Board of Industrial Insurance Appeals on April 4, 2002, from an order of the Department of Labor and Industries dated February 6, 2002. The Department, in its order of February 6, 2002, affirmed a Department dated November 10, 1999, that determined that the claimant's March 23, 1999 automobile accident was not related to the claimant's August 22, 1994 industrial injury; and rejected all of the conditions and costs related to the March 23, 1999 automobile accident. The Department order is **REVERSED AND REMANDED.**

DECISION

Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review and decision on a timely Petition for Review filed by the Department to a Proposed Decision and Order issued on January 2, 2003, in which the industrial appeals judge reversed and remanded the Department order dated February 6, 2002, with direction to determine that Ms. Vandorn's March 23, 1999 automobile injury was covered as a sequelae of her August 22, 1994 industrial injury; to accept the conditions caused by the March 23, 1999 automobile accident; and, to take such other and further action as is authorized or required by law.

This matter was decided by our industrial appeals judge based on the claimant's Motion for Summary Judgment and the Department's Cross-Motion for Summary Judgment. The record consists of various affidavits and exhibits, as set forth in the Proposed Decision and Order. We have reviewed the same affidavits and exhibits as set forth in the Proposed Decision and Order in reaching our decision.

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

On August 22, 1994, Iris R. Vandorn, was injured in the course of her employment with North Star Enterprises, Inc. Ms. Vandorn filed an application for benefits with the Department of Labor and Industries, and the claim was accepted. The claim remained open through March 23, 1999, when Ms. Vandorn was injured returning from a meeting with her attorney and her vocational rehabilitation counselor. The meeting between the claimant and her vocational rehabilitation counselor took place at the office of the claimant's attorney. The meeting was held at the request of the Department as part of the administration of the claim. Ms. Vandorn was injured when her vehicle veered from its lane of travel, crossed the centerline of the roadway, and struck an on-coming bus. She sustained severe injuries as a result of this collision. The claimant seeks to have the injuries sustained in the automobile collision of March 23, 1999, accepted as a part of the original industrial injury.

In the order under appeal, the Department determined that the injuries sustained by Ms. Vandorn in the automobile accident on March 23, 1999, were not related to her earlier August 22, 1994 industrial injury. However, our industrial appeals judge, in the Proposed Decision and Order, directed the Department to accept the injuries associated with the automobile collision of March 23, 1999, as part of the original industrial injury claim. While we agree with the result reached in the Proposed Decision and Order, we have granted review in order to clarify why we believe Ms. Vandorn was covered under our industrial insurance act at the time of the automobile collision on March 23, 1999.

Our industrial appeals judge decided this case based on a "course of employment" analysis. Using this analysis, he found that Ms. Vandorn was in "travel status" in the course of her employment, and, is thus, covered as a traveling worker would be covered, citing as authority our decision in *In re Sherry L. Hayes, Dec'd*, Dckt. No. 93 1945 (April 18, 1995). We disagree with this analysis. We do not believe it is appropriate to analyze an injury in the course of the administration of the claim, using a strict course of employment analysis. Ms. Vandorn was not traveling for her employer, and was not "in the course of her employment," as that term is used in our Industrial Insurance Act on March 23, 1999, when her vehicle struck the bus. Although the definition of "course of employment" has a broad scope within our Industrial Insurance Act, we find no authority to apply the "course of employment" analysis to the facts involving Ms. Vandorn. Instead, we

believe the proper analysis to use in evaluating this claim, is to view Ms. Vandorn's injury in the automobile collision as a compensable consequence to a compensable injury.

The compensable consequence doctrine is discussed in 1 Larson's *Workers' Compensation Law*, § 10.07 (2002). The doctrine is usually applied in situations where a worker who is required to attend a medical appointment as a part of the administration of a claim, is injured on the way to or from the medical appointment. As Larson notes, the general rule is that such injuries are sufficiently causally connected to the original injury so as to be compensable consequences of the original compensable injury.

We believe the compensable consequence of a compensable injury doctrine, as set forth in Larson's discussion, is applicable to our Industrial Insurance Act. Additionally, we see no distinction between a trip to a required vocational appointment and a required medical appointment when applying this doctrine. On the facts presented in this record, we find Ms. Vandorn was covered under the Industrial Insurance Act at the time of the automobile collision of March 23, 1999, and that any injuries she sustained as result of the collision are covered under the Industrial Insurance Act as compensable consequences of a previously compensable injury.

The Department order of February 6, 2002, is reversed and this matter is remanded to the Department of Labor and Industries.

FINDINGS OF FACT

1. On August 31, 1994, the claimant, Iris R. Vandorn, filed an application for benefits with the Department of Labor and Industries. She alleged that on August 22, 1994, while in the employ of North Star Enterprises, Inc., she had suffered an industrial injury to her neck, back, and hip. The Department accepted the claim. On November 10, 1999, the Department issued an order denying responsibility for injuries proximately caused by an automobile accident that occurred on March 23, 1999. In that order, the Department also paid Ms. Vandorn an award for permanent partial disability equal to Category 2 of WAC 296-20-280 for permanent dorso-lumbar and lumbosacral impairments for conditions proximately caused by the industrial injury and closed the claim with time-loss compensation as paid. On January 6, 2000, Ms. Vandorn filed her Notice of Appeal with the Board of Industrial Insurance Appeals under Docket No. 00 10257 from the Department's November 10, 1999 order. On June 20, 2000, the Board issued an Order on Agreement of Parties, including that docket number. Pursuant to that order, the Department reconsidered certain prior orders, including its order dated November 10, 1999. On February 6, 2002, the Department issued an order affirming its November 10, 1999

order. On April 4, 2002, Ms. Vandorn filed her Notice of Appeal with the Board from that order, and on May 3, 2002, the Board issued an order granting the appeal, assigning Docket No. 02 11466, and ordering that further proceedings be held in this matter.

2. On August 22, 1994, the claimant, Iris R. Vandorn, was working as a flagger for North Star Enterprises, Inc., when she was struck by a vehicle and was injured. The claim was allowed as a compensable claim under Claim No. P-105584

3. On March 23, 1999, Iris R. Vandorn was returning from a meeting with a vocational rehabilitation counselor when the vehicle she was operating veered from its lane of travel and struck an on-coming bus. Ms. Vandorn sustained injuries proximately caused by the automobile collision.

4. Ms. Vandorn's meeting with the vocational rehabilitation counselor was at the direction of the Department of Labor and Industries. Additionally, the meeting was required by the Department as part of the administration of Claim No. P-105584, an allowed compensable claim.

5. The affidavits and exhibits submitted by the parties demonstrate that there is no genuine issue as to any material fact.

CONCLUSIONS OF LAW

1. The Board of Industrial Insurance Appeals has jurisdiction over the parties to and the subject matter of this appeal.

2. The claimant is entitled to a summary disposition as a matter of law by Civil Rule 56.

3. On March 23, 1999, at the time of her automobile accident, Iris R. Vandorn was covered by the Industrial Insurance Act.

4. The order of the Department of Labor and Industries dated February 6, 2002 is incorrect and is reversed. The claim is remanded to the Department with directions to determine that Iris R. Vandorn's March 23, 1999 automobile injury was covered as a compensable consequence of her August 22, 1994 industrial injury, to accept conditions caused by the

March 23, 1999 automobile accident, and to take such other and further action as is authorized or required by law.

It is so ORDERED.

Dated this 11th day of July, 2003.

BOARD OF INDUSTRIAL INSURANCE APPEALS

/s/_____
THOMAS E. EGAN Chairperson

/s/_____
FRANK E. FENNERTY, JR. Member