ALASKA WORKERS' COMPENSATION BOARD

P.O. Box 115512 **Juneau, Alaska 99811-5512**

DAVID SMITH, Employee, Claimant,	)	FINAL DECISION AND ORDER
v.	)	AWCB Case Nos. 198103238M
CHRIS BERG & ASSOCIATES, Employer,	)	AWCB Decision No. 14-0170
and	)	Filed with AWCB Anchorage, Alaska On December 22, 2014
PROVIDENCE WASHINGTON INSURANCE CO., Insurer, Defendants.	)	

David Smith's April 2, 2013 and May 2, 2014 claims were heard November 25, 2014 in Anchorage, Alaska. This hearing date was selected on August 27, 2014. Non-attorney representative Jason Walden appeared and represented David Smith (Employee). Attorney Nora Barlow appeared and represented Chris Berg & Associates and Providence Washington Insurance Co. (Employer). Employee appeared and testified. The record closed at the hearing's conclusion on November 25, 2014.

ISSUES

Employee contends the 1980 and 1985 compromise and release (C&R) agreements he signed should be set aside, and he should be awarded additional medical costs, disability benefits, and permanent partial impairment (PPI) benefits. Employer contends the C&R agreements should not be set aside.

1. Should either or both of the 1980 or 1985 C&R agreements be set aside?

Alternatively, Employee contends, that even if the C&R agreements are not set aside, he is entitled to ongoing medical costs related to his right arm. Employer contends the work injury is not a substantial factor in Employee's current need for medical treatment.

2. If the C& R Agreements are not set aside, is Employee entitled to medical benefits?

FINDINGS OF FACT

The following findings of fact and factual conclusions are undisputed or established by a preponderance of the evidence:

1. On November 30, 1976, Employee injured his left ankle while working as a service oiler for Morrison-Knudsen Co., Inc. in Valdez, Alaska. (Report of Injury, December 3, 1976, AWCB Case No. 76-11-0295).
2. On June 20, 1978, while working for Employer as a service oiler in Dillingham, Alaska, Employee hit his right elbow on a belly dump while pulling a grease hose to service a truck. (Report of Injury, June 30, 1978; C&R, January 21, 1985).
3. Employee continued working until June 25, 1978, when he saw George Wichman, M.D. Employee described the cause of the injury to Dr. Wichman as "hit elbow on a dump truck." Dr. Wichman diagnosed the after-effects of a contusion. (Dr. Wichman, Physician's initial report of Work Injury, June 28, 1978).
4. On August 6, 1978, Employee was seen by J. Michael James, M.D. Employee reported to Dr. James that the injury occurred when he was pulling a service hose and fell back hitting a dump truck with his elbows, hands, shoulder, and neck. Dr. James noted the right side was more severe than the left. (Dr. James, Physician's Report, August 6, 1978).
5. On March 14, 1979, William Reinbold, M.D. performed a carpal tunnel decompression on Employee's right wrist. (The Surgery Center, Report, March 14, 1979).
6. On May 7, 1979, Employee was released to regular work. (Dr. Reinbold, Physician's Supplemental Report, May 4, 1979).
7. On June 28, 1979, Employee filed an Application for Adjustment of Claim seeking TTD and medical costs. He described the injury as "carpal tunnel, right wrist," and stated it occurred "pulling out grease hose, hit elbow on belly dump." (Claim, June 28, 1979).

8. On November 2, 1979, Employee and Employer's adjuster, neither of whom was represented by an attorney, filed a C&R with the board for approval. Under the agreement, Employee would have received $7,000.00 and waived all future temporary total disability (TTD), permanent partial disability (PPD), temporary partial disability benefits, and compensation benefits during retraining, but Employer would pay medical benefits "pertaining to this disputed arm injury of 6-20-78 for a period of one year." The agreement states that Employee had requested the settlement. (C&R, November 2, 1979).
9. The November 2, 1979 C&R was not approved by the board. (Record).
10. Although the exact date is no longer known, by November 21, 1979, Employer paid Employee PPD benefits of $4,368.00 for a 10% loss of the use of his arm. (Final Report, November 21, 1979).
11. In 1980, Employee and Employer's adjuster filed another C&R with the board for approval. Again, neither party was represented by an attorney. The agreement reflected the $4,368 in PPD benefits that had been paid, and, as in the earlier agreement, Employee received $7,000.00 and waived all future temporary total disability (TTD), permanent partial disability (PPD), temporary partial disability benefits, and compensation benefits during retraining, but Employer would pay medical benefits "pertaining to this disputed arm injury of 6-20-78 for a period of one year." The agreement was approved on February 7, 1980. (C&R, February 7, 1980).
12. Employee continued to seek medical treatment for his right arm as well as his neck and left arm and wrist. (*e.g.*, Dr. James, Letter, July 25, 1984).
13. On November 14, 1984, George Siegfried, M.D., opined Employee's left carpal tunnel syndrome was related to the June 7, 1978 injury. (Letter, Dr. Siegfried to Chancy Croft, November 14, 1984).
14. On September 17, 1984, Employee filed a claim seeking to set aside the 1980 C&R and asking for TTD, PPD, and medical costs. In the claim, Employee asserted he had injured both his right and left arms in the June 1978 injury. (Claim, September 17, 1984).
15. On January 10, 1985, the parties filed a C&R with the board for approval. Both parties were represented by attorneys. Under the agreement, Employee would receive an additional $5,000.00 and in exchange waived "all compensation, regardless of its nature," including TTD, TPD, PPD, PTD, medical benefits related to the left hand, and vocational rehabilitation

compensation. The agreement stated Employer would only be liable for reasonable and necessary medical expenses related to the June 20, 1978 right arm injury. The agreement was approved by the board on January 21, 1985. (C&R, January 21, 1985).

16. On February 5, 1985, Employer filed a compensation report indicating the $5,000.00 payment pursuant to the C&R had been made on January 29, 1985. (Compensation Report, February 5, 1985).
17. On April 29, 2013, Employee filed a claim for an injury while working for Employer in Glennallen, Alaska, on January 1, 1979. Employee stated the repetitive hand motions using "oil gunners" in below-zero cold caused carpal tunnel syndrome which required surgery. (Claim, April 2, 2013).
18. After Dr. Siegfried's November 14, 1984 letter, the next medical record is from August 19, 2013 when Employee went to Resurgens Orthopaedics in Morrow, Georgia. (Morrow Resurgens Orthopaedics, Clinical Summary, August 19, 2013).
19. After x-rays, Employee returned to Resurgens Orthopaedics on September 10, 2013 where he was seen by Christopher Walsh, M.D. Employee reported the carpal tunnel releases in 1978 and 1984, with evolving numbness and pain in both hands and wrists over years as well as "catching and locking" of his left long finger. He was diagnosed with bilateral wrist arthritis, bilateral hand numbness, and left ring finger triggering and was referred for electrodiagnostic testing. (Resurgens Orthopaedics, Clinical Summary, September 10, 2013).
20. Nerve conduction studies done September 25, 2013 revealed moderate to severe carpal tunnel syndrome bilaterally. (Resurgens Orthopaedics, EMG/NCS Report, September 25, 2013).
21. On September 27, 2013, Employee returned to Dr. Walsh, who diagnosed carpal tunnel syndrome, joint pain in the wrist, and trigger finger. (Resurgens Orthopaedics, Clinical Summary, September 27, 2013).
22. On November 12, 2013, Dr. Walsh wrote a "to whom it may concern" letter stating he could not attribute Employee's arthritis to the work injury, but the residual carpal tunnel syndrome did relate to the work injury. (Dr. Walsh, Letter, November 12, 2013).
23. On November 13, 2013 Employee underwent wrist surgery. (Pre-surgical Checklist; Dr. Walsh deposition testimony, p. 9). The surgery was to address Employee's arthritis rather than the carpal tunnel syndrome. (Dr. Walsh deposition testimony, p. 9). At the time of the

surgery, Dr. Walsh understood that Employee fell backwards onto his hand while pulling on a hose. He would not expect that striking an elbow on the side of a truck would cause carpal tunnel syndrome. While a fall could cause carpal tunnel syndrome, he would expect such a fall to cause a severe contusion, sprain, or fracture. Because the 1978 medical reports did not indicate an injury to the wrists, Dr. Walsh could not attribute Employee's need for medical treatment to the work injury. (Dr. Walsh deposition testimony, pp. 11, 14)

24. On March 5, 2014, Stephen McCollam, M.D. saw Employee for an employer's medical evaluation (EME). Dr. McCollam did not have medical records dating back to the 1978 injury. He relied on Employee's description of the injury – that he had fallen backwards onto his outstretched wrists. Dr. McCollam stated the 1978 work injury was a substantial factor in the need for his recent surgery and continued carpal tunnel care. (Dr. McCollam, EME Report, March 5, 2014).
25. On April 10, 2014, after reviewing historical medical records related to Employee's injury, Dr. McCollam issued an addendum to his March 5, 2014 report. He noted the injury was described as Employee striking his elbow on the side of a truck. He revised his earlier opinion on causation and stated the work injury was not a substantial factor in either Employee's carpal tunnel syndrome or his arthritis. (Dr. McCollam, EME Addendum, April 10, 2014).
26. On May 2, 2014, Employee filed another claim asking that the C&R agreements be set aside and seeking TTD, medical costs, reemployment benefits, penalty, interest, and alleging unfair or frivolous controversions. (Claim, May 2, 2014).
27. Dr. McCollam was deposed on November 10, 2014. He stated that in his original report he had relied on the information provided by Employee as to the nature of the work injury. Based on Employee's description, he assumed ligament tear had occurred in 1978. After reviewing the records back to 1978, he changed his opinion. The medical records at the time do not reflect a torn ligament in Employee's wrist. After reviewing the medical records, his opinion is that the work injury was not a substantial factor in Employee's carpal tunnel syndrome. (Dr. McCollam deposition testimony, pp. 8, 11, 12, 13, 17).
28. Employee testified he signed the first C&R because he was under duress. He explained his financial situation was bad, the benefit checks had stopped, and his income dropped significantly. As to the second C&R, he stated he does not recall signing the agreement, and

was not paid the settlement amount. He explained that at the time of the first C&R he signed several blank forms for the insurer, and he suggests the 1985 C&R could have been written in above one of those signatures. (Employee).

PRINCIPLES OF LAW

The law in effect at the time of an injury generally determines the parties' rights and remedies, despite later changes to the law. *See, e.g., Weed v. State*, AWCAC Decision No. 204 (November 13, 2014). Unless noted otherwise, all quotations are to the Act as it existed at the time of Employee's June 1978 injury.

AS 23.30.010 COVERAGE.
Compensation is payable under this chapter in respect of disability or death of an employee.

AS 23.30.095 MEDICAL EXAMINATIONS.
(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires, not exceeding two years from and after the date of injury to the employee. However, if the condition requiring the treatment, apparatus, or medicine is a latent one, the two-year period runs from the time the employee has knowledge of the nature of the employee's disability and its relationship to the employment and after disablement. It shall be additionally provided that, if continued treatment or care or both beyond the two-year period is indicated, the injured employee has the right of review by the board. The board may authorize continued treatment or care or both as the process of recovery may require. . . . .

AS 23.30.120 PRESUMPTIONS.
(a) In a proceeding for the enforcement of a claim for compensation under this chapter it is presumed, in the absence of substantial evidence to the contrary, that
(1) the claim comes within the provisions of this chapter;
(2) sufficient notice of the claim has been given;
(3) the injury was not proximately caused by the intoxication of the injured employee or proximately caused by the employee being under the influence of drugs unless the drugs were taken as prescribed by the employee's physician;
(4) the injury was not occasioned by the wilful intention of the injured employee to injure or kill self or another.

Under AS 23.30.120(a)(1), benefits sought by an injured worker are presumed to be compensable. *Meek v. Unocal Corp*., 914 P.2d 1276, 1279 (Alaska 1996). The presumption of compensability is applicable to any claim for compensation under the workers' compensation statute, including medical benefits. *Carter,* 818 P.2d at 665; *Meek*, 914 P.2d at 1279; *Moretz v. O'Neill Investigations*, 783 P.2d 764, 766 (Alaska 1989); *Olson v. AIC/Martin J.V.*, 818 P.2d 669, 675 (Alaska 1991).

Application of the presumption involves a three-step analysis. To attach the presumption of compensability, an employee must first establish a "preliminary link" between his or her injury and the employment. *See, e.g., Tolbert v. Alascom, Inc*., 973 P.2d 603, 610 (Alaska 1999). Medical evidence may be needed to attach the presumption of compensability in a complex medical case. *Burgess Constr. v. Smallwood*, 623 P.2d 312, 316 (Alaska 1981). However, an employee "need not present substantial evidence that his or her employment was a substantial cause of his disability." *Fox v. Alascom, Inc.*, 718 P.2d 977, 984 (Alaska 1986) "In making the preliminary link determination, the Board may not concern itself with the witnesses' credibility." *Excursion Inlet Packing Co. v. Ugale*, 92 P.3d 413, 417 (Alaska 2004).

If the employee establishes the preliminary link, then the employer can rebut the presumption by either (1) providing an alternative explanation which, if accepted, would exclude work-related factors as a substantial cause of the injury, etc.; or (2) directly eliminate any reasonable possibility that employment was a factor in causing the injury, etc. *Tolbert v. Alascom, Inc.*, 973 P.2d 603, 611 (Alaska 1999). Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Fireman's Fund Am. Ins. Companies v. Gomes*, 544 P.2d 1013, 1015 (Alaska 1976). The determination of whether evidence rises to the level of substantial is a legal question. *Id*. Because the employer's evidence is considered by itself and not weighed at this step, credibility is not examined at this point. *Veco, Inc. v. Wolfer*, 693 P.2d 865, 869-870 (Alaska 1985).

If the presumption is raised and not rebutted, the claimant need produce no further evidence and prevails solely on the raised but un-rebutted presumption. *Williams v. State*, 938 P.2d 1065 (Alaska 1997). "If the employer rebuts the presumption, it drops out, and the employee must

prove, by a preponderance of the evidence, that in relation to other causes, employment was the substantial cause of the disability, need for medical treatment, etc. Should the employee meet this burden, compensation or benefits are payable." *Runstrom v. Alaska Native Medical Center*, AWCAC Decision No. 150 (March 25, 2011) at 8.

Applying the statutory presumption of compensability involves three steps.

> First, the employee must establish the preliminary link between her employment and her alleged injury. Once the employee establishes that link, it is the employer's burden to overcome the presumption of compensability by coming forward with substantial evidence that the injury was not work related. If the employer meets this burden then the presumption disappears and the employee must prove her claim by a preponderance of the evidence.

DeYonge v. NANA/Marriott, 1 P.3d 90, 94 (Alaska 2000) (citations omitted).

> **AS 23.30.185 COMPENSATION FOR TEMPORARY TOTAL DISABILITY.**
> In case of disability total in character but temporary in quality, 66 2/3 percent of the injured employee's average weekly wages shall be paid to the employee during the continuance of the disability.
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> **23.30.210 DETERMINATION OF WAGE-EARNING CAPACITY**
> . . . .
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> (b) At any time after death, or after 30 days subsequent to the date of the injury, the employer and the employee or the beneficiary or beneficiaries, as the case may be, have the right to reach an agreement in regard to a claim for injury or death under this chapter in accordance with the applicable schedule in this chapter, but a memorandum of the agreement in a form prescribed by the board shall be filed with the board. Otherwise, the agreement is void for any purpose. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the compensation notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. The board may approve lump-sum settlements when it appears to be to the best interest of the employee or beneficiary or beneficiaries.

A workers' compensation C&R is a contract, and subject to interpretation as any other contract. *Seybert v. Cominco Alaska Exploration*, 182 P.3d 1079, 1093-1094 (Alaska 2008).

Clear and convincing evidence is necessary in order to set aside a C&R. *Olsen Logging Co. v. Lawson*, 856 P.2d 1155 (Alaska 1993).

The Alaska Workers' Compensation Act (Act) does not permit workers' compensation settlement agreements to be set aside due to a unilateral or mutual mistake of fact. *Id*. at 1158-59. That an employee did not know the extent of his or her disability at the time the agreement was signed is a mistake of fact, and does not justify setting aside a C&R. *Smith v. CSK Auto, Inc*., 204 P.3d 1001, 1007-1008 (Alaska 2009).

A workers' compensation C&R may be set aside if based on fraud or misrepresentation. A party seeking to void the contract for fraud or misrepresentation must show, by clear and convincing evidence: (1) a misrepresentation was made; (2) which was fraudulent or material; (3) which induced the party to enter the contract; and (4) upon which the party was justified in relying. *Seybert* at 1093-1094.

A C&R may also be set aside for duress or coercion. A party seeking to void the agreement for duress or coercion must show, by clear and convincing evidence: 1) one party involuntarily accepted the terms of another; 2) circumstances permitted no other alternative; and 3) such circumstances were the result of coercive acts of the other party. *Helstrom v. North Slope Borough*, 797 P2d 1192, 1197 (Alaska 1990).

Clear and convincing evidence is "evidence that is greater than a preponderance, but less than proof beyond a reasonable doubt." It is "that amount of evidence which produces in the trier of fact a firm belief or conviction about the existence of a fact to be proved." *Buster v. Gale*, 866 P.2d 837, 844 (Alaska 1994) (quoting *Castellano v. Bitkower*, 216 Neb. 806, 346 N.W.2d 249, 253 (1984)).

ANALYSIS

1. Should either or both of the 1980 or 1985 C&R agreements be set aside?

A workers' compensation C&R may be set aside if based on fraud or misrepresentation or if acquired through duress or coercion. A party seeking to void the agreement must present clear

and convincing evidence the agreement should be set aside. As to the 1980 C&R, Employee does not allege fraud or misrepresentation; he argues only that he signed the agreement under duress. The only duress to which Employee testified was that he signed the agreement because his financial situation was bad because he was no longer receiving benefits. However, to set aside a C&R the duress or coercion must be an act done by the other party. *Helstrom*. In most cases, workers' compensation disability benefits are less than an employee's pre-injury wages, and an employee's financial situation can be adversely affected. That is not a coercive act by the employer, however. Employee is correct that he was no longer receiving benefits, but that is because he was released to full-duty work by Dr. Reinbold on May 7, 1979. Again, it was not due to a coercive act by Employer. Employee has produced no evidence, let alone clear and convincing evidence, of any duress or coercion by Employer. The 1980 C&R will not be set aside.

As to the 1985 C&R, Employee's arguments all allege fraud. He contends he did not know of the agreement, did not sign it, and never received the money. While Employee is sincere in his assertions, the evidence indicates he is a poor historian and his assertions are not credible. It is undisputed that Employee's injury occurred in June 1978while working for Employer in Dillingham, Alaska. However, in his April 29, 2013 claim, Employee stated he was working for Employer in Glennallen, Alaska, on January 1, 1979 and the injury was caused by working in below-zero cold. While Employee did suffer an earlier injury in Valdez, there is no evidence Employee ever reported an injury while working in Glennallen, and it is highly improbable Employee experienced below-zero cold in Dillingham in late June. Further, there is no evidence that Employee was working on January 1, 1979; the injury here occurred in June 1978, and he was not released to work until May 1979

Employee's assertion that he had signed blank agreements in1980, and the 1985 agreement could have been "written in" above his signature is not credible. The 1979 and 1980 agreements were on forms supplied by the board and the signatures were in the provided spaces. The 1985 agreement is drafted on Employee's attorney's pleading paper and Employee's signature is in a different location on the page.

Employee's contention that he did not receive the money stated in 1985 C&R is also not credible. After 28 years, conclusive proof the payment was or was not made is unlikely. However, the February 5, 1985, compensation report is substantial evidence the payment was made. Further, there is no evidence Employee contacted his attorney any time after the 1985 C&R agreement was approved. Having retained an attorney to pursue his claim against Employer, it is improbable that he would not contact the attorney for 28 years. Similarly, there is no evidence Employee contacted the board during that time.

After 36 years, it is to be expected that memory of details may fade or be confused. While Employee's testimony is some evidence the 1985 C&R was procured through fraud, it is not credible evidence, and is far short of clear and convincing evidence. The 1985 C&R will not be set aside.

2. If the C& R Agreements are not set aside, is Employee entitled to medical benefits?

Because the C&R agreements will not be set aside, the only benefit to which Employee may be entitled is reasonable and necessary medical expenses for his right arm. Under the Act as it existed in 1978, Employee is entitled to medical costs if the work injury is a substantial factor in causing the need for treatment.

The presumption analysis applies to medical benefits. To attach the presumption, Employee must establish a "preliminary link" between his injury and the employment. At this stage, credibility is not considered nor is Employee's evidence weighed against competing evidence. Here, Employee's testimony, Dr. Walsh's November 12, 2013 "to whom it may concern" letter, and Dr. McCollam's March 5, 2104, EME report clearly establish the preliminary link.

To rebut the presumption, Employer must present substantial evidence that providing an alternative explanation which, if accepted, would exclude work-related factors as a substantial cause of the injury or directly eliminate any reasonable possibility that employment was a factor in causing the injury. Here, Dr. Walsh's testified in deposition that he could not attribute Employee's need for medical treatment to the work injury. In both his April 10 2014 EME

addendum and in his deposition testimony, Dr. McCollam stated the work injury was not a substantial factor in Employee's need for medical treatment.

Because Employer rebutted the presumption, it falls out, and Employee must show by a preponderance of the evidence that the employment is a substantial factor in his current need for medical treatment. He did not do so. Both Dr. Walsh and Dr. McCollam revised their opinions after reviewing the medical records of Employee's early treatment. In his deposition, Dr. Walsh stated he could no longer attribute Employee's need for medical treatment to the work injury. In both his April 10, 2014 EME Addendum and in his deposition testimony, Dr. McCollam opined work was not a substantial factor in Employee's current carpal tunnel syndrome or arthritis. While it is not clear whether Employee fell at the time of the injury, both doctors explained that while a fall could cause carpal tunnel syndrome, the fall would have to cause a torn ligament, severe contusion, sprain, or fracture, and none of those condition were noted in Employee's early medical records. The preponderance of the evidence is that the work injury is not a substantial factor in Employee's need for medical treatment in 2013 or currently. Employee's claim will be denied.

CONCLUSIONS OF LAW

1. Neither the 1980 nor the 1985 C&R agreement will be set aside.
2. Employee is not entitled to medical benefits.

ORDER

1. Employee's April 2, 2013 and May 2, 2014 claims are denied.

Dated in Anchorage, Alaska on December 22, 2014.

ALASKA WORKERS' COMPENSATION BOARD

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Ronald P. Ringel, Designated Chair

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Linda Hutchings, Member

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Stacy Allen, Member

APPEAL PROCEDURES

This compensation order is a final decision. It becomes effective when filed in the office of the board unless proceedings to appeal it are instituted. Effective November 7, 2005 proceedings to appeal must be instituted in the Alaska Workers' Compensation Appeals Commission within 30 days of the filing of this decision and be brought by a party in interest against the boards and all other parties to the proceedings before the board. If a request for reconsideration of this final decision is timely filed with the board, any proceedings to appeal must be instituted within 30 days after the reconsideration decision is mailed to the parties or within 30 days after the date the reconsideration request is considered denied due to the absence of any action on the reconsideration request, whichever is earlier. AS 23.30.127.

An appeal may be initiated by filing with the office of the Appeals Commission: 1) a signed notice of appeal specifying the board order appealed from and 2) a statement of the grounds upon which the appeal is taken. A cross-appeal may be initiated by filing with the office of the Appeals Commission a signed notice of cross-appeal within 30 days after the board decision is filed or within 15 days after service of a notice of appeal, whichever is later. The notice of cross-appeal shall specify the board order appealed from and the ground upon which the cross-appeal is taken. AS 23.30.128.

RECONSIDERATION

A party may ask the board to reconsider this decision by filing a petition for reconsideration under AS 44.62.540 and in accord with 8 AAC 45.050. The petition requesting reconsideration must be filed with the board within 15 days after delivery or mailing of this decision.

MODIFICATION

Within one year after the rejection of a claim, or within one year after the last payment of benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, a party may ask the board to modify this decision under AS 23.30.130 by filing a petition in accord with 8 AAC 45.150 and 8 AAC 45.050.

CERTIFICATION

I hereby certify the foregoing is a full, true and correct copy of the Final Decision and Order in the matter of DAVID SMITH, employee / claimant; v. CHRIS BERG & ASSOCIATES, employer; PROVIDENCE WASHINGTON INSURANCE CO., insurer / defendants; Case No. 198103238M; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties on December 22, 2014.

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Sertram Harris, Office Assistant