

ALASKA WORKERS' COMPENSATION BOARD



P.O. Box 115512

Juneau, Alaska 99811-5512

JOSEPH HARVAN,)
Employee,)
Claimant,) FINAL DECISION AND ORDER
v.)
ADAK COD COOPERATIVE, LLC,) AWCB Case No. 201404956
Employer,)
and) AWCB Decision No. 14-0171
ALASKA NATIONAL INSURANCE,) Filed with AWCB Anchorage, Alaska
Insurer,) on December 23, 2014
Defendants.)
_____)

Joseph Harvan's (Employee) October 15, 2014 workers' compensation claim appealing the Reemployment Benefit Administrator designee's (RBA designee) September 30, 2014 letter decision finding him not eligible for reemployment benefits was heard on November 25, 2014, in Anchorage, Alaska, a date selected on November 6, 2014. Employee appeared telephonically, represented himself, and testified. Attorney Michael Budzinski appeared and represented Adak Cod Cooperative, LLC and Alaska National Insurance Company (Employer). There were no witnesses. The record closed at the hearing's conclusion on November 25, 2014.

ISSUE

Employee contends the RBA designee's determination that Employee is not eligible for reemployment benefits should be modified because it was based on incorrect facts, and a revised report and additional information are now available. Employee contends he is "at least to some

degree” entitled to reemployment benefits because he does not have the training, experience or licenses necessary to return to work as a Mortgage Loan Closer/Processor.

Employer contends the RBA designee correctly found Employee ineligible for reemployment benefits because he had worked as a Mortgage Loan Closer/Processor in the decade before his work injury, his treating physician predicted Employee would have the permanent physical capacities to perform that job again, and the rehabilitation specialist had determined that job exists in the labor market.

Should the RBA designee’s determination that Employee is eligible for reemployment benefits be modified?

FINDINGS OF FACT

- 1) On March 1, 2014, Employee reportedly suffered a lower lumbar strain when he bent over to pick up a frozen block of fish weighing approximately 80 pounds. (Report of Injury, March 10, 2014.)
- 2) On August 13-20, 2014, Sanjay V. Deshmukh, M.D., predicted Employee would have the permanent physical capacities to perform the physical demands for his job at the time of injury, a Tallier, as described in the 1993 edition of the United States Department of Labor’s Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles (SCODRDOT). Regarding other jobs Employee held in the ten years prior to his injury, Dr. Deshmukh predicted Employee “will have restrictions” in his permanent physical capacity to work as a Concrete-Batching and Mixing-Plant Supervisor, and would not be able to work as a Mortgage Loan Closer or Mortgage Loan Processor. (Deshmukh job description forms, August 13-20, 2014.)
- 3) When a physician opines an employee “will have restrictions” with regard to a particular job as described in the SCODRDOT, it constitutes the functional and legal equivalent of answering “No” to the question, “Do you predict that the employee will have the permanent physical capacity to perform the physical demands of this job, as it is described in the job description above?” (Experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above.)

4) On August 27, 2014, rehabilitation specialist Judith Najarian concluded Employee was not eligible for reemployment benefits, based on Dr. Deshmukh's predictions. (Najarian eligibility evaluation report, August 27, 2014.)

5) On September 30, 2014, the RBA designee found Employee not eligible for reemployment benefits based on Ms. Najarian's August 27, 2014 eligibility evaluation report. The designee noted the specialist's recommendation was based on a mistaken reading of Dr. Deshmukh's predictions, but the end result, ineligibility, was the same:

It should be noted that the specialist's recommendation that you be found not eligible for reemployment benefits was based on incorrect information. I contacted the specialist on September 30, 2014 and she confirmed she had mistakenly read Dr. Deshmukh's predictions on the DOT/SCODRDOT job descriptions that had been submitted to him. Because she thought the only job he had predicted you would have the permanent physical capacities to perform was one you held in your ten-year work history, which was represented by the DOT/SCODRDOT job descriptions for Mortgage Loan Closer and Mortgage Loan Processor, she conducted research to document the existence of the job in the labor market as required under the provisions of the laws governing workers' compensation. However, Dr. Deshmukh predicted you would have the permanent physical capacities to perform your job at the time of injury; per Alaska statute 23.30.041(e)(1), you are not eligible for reemployment benefits per this criterion. Additionally, labor market research is not necessary if a physician predicts you will have the permanent physical capacities to perform your job of injury. (Designee letter, September 30, 2014.)

6) On October 2, 2014, Employee called a Workers' Compensation Technician to state he took the eligibility evaluation report back to Dr. Deshmukh, who had "misread what was being asked of him." Dr. Deshmukh changed his predictions to indicate Employee would not have the permanent physical capacities to perform the physical demands of a Tallier, rated as a light-strength job, but would have the permanent physical capacities to work in the sedentary positions of Mortgage Loan Closer and Mortgage Loan Processor. Dr. Deshmukh did not make a second prediction regarding Employee's ability to work as a Concrete-Batching and Mixing-Plant Supervisor. (ICERS phone record; Deshmukh job description forms, October 2, 2014.)

7) On October 3, 2014, Specialist Najarian Specialist Judith Najarian again concluded Employee was not eligible for reemployment benefits, based on Dr. Deshmukh's revised predictions. (Najarian addendum eligibility evaluation report, October 3, 2014.)

8) On October 8, 2014, the RBA called Employee. The RBA's phone log reads:

I left a message for the employee reiterating that he needs to file his claim if he wants to appeal the decision as we cannot go back and readdress the evaluation w/o agreement of parties. [Employer] could stipulate to eligibility. I did note the specialist's original recommendation was consistent with what she found on the mortgage positions in her report submitted after our determination. Even if [his job at the time of injury] was not approved after all, it appeared he would be found ineligible. (ICERS computer database.)

9) On October 20, 2014, Employee filed a claim for review of the RBA decision he was ineligible for reemployment benefits. Employee stated: "It was determined, as of 9/30/14, that I am not eligible for reemployment benefits based upon the 8/27/14 eligibility evaluation report of rehabilitation specialist Judith Najarian. This report was incorrect. A revised report dated 10/3/14 has been submitted with corrections but lacks pertinent information." An attachment elaborated:

In the eligibility evaluation report dated 10/3/14 by Judith Najarian, a report based on the professional opinion of Dr. Sanjay Deshmukh, I found the report lacking pertinent information which I think is critical in the determination of whether or not I am eligible for reemployment benefits. The report states that I can handle the occupations of Mortgage Loan Closer and Mortgage Loan Processor. However, my experience in these fields is limited, as I was self employed as a Mortgage Loan Officer for only 3 years from 2003-2006. I originated, processed and closed only my own loans as an independent contractor. I have no experience insofar as an employee of a Real Estate Broker, bank or what have you. As an independent contractor working under the license of a Broker, a real estate salesperson license was required. At the time I had an active license. This was 8 years ago and my license is no longer active. My license to practice mortgage lending has expired, which makes me ineligible to work or be employed as a Mortgage Loan Processor/Closer. Additionally, all the laws have changed over the years and even with an active license, I would be starting all over again, needing considerable training to successfully be employed in this field.

This report also failed to address the job title/position of Concrete Batching and Ready Mix Concrete Plant Supervisor. My primary occupation over the years has been in this field, and this is what I am most qualified to do. However, this type of work is all inclusive of the daily operations of a ready mix concrete company. This means being able to do everything necessary to effectively lead and be responsible for daily operations. This involves everything from sitting at a desk to climbing up on top of a plant for plant repairs / maintenance. If I could find the right position, with the right company, a company agreeing to a person who only works as office personnel in the capacity as an Operations Supervisor, I am confident I would do well. Woefully, it has been my experience over the last 20 years that this position does not exist or is indeed very rare. I would like to secure

employment back in the ready mix concrete industry, but I fear this is not an option now.

. . . It is my opinion that I should be eligible for reemployment benefits, at least to some degree. . . . (Claim and attachment, October 15, 2014.)

10) At hearing on November 25, 2014, Employee testified he didn't "really have anything in addition to" his October 15, 2014 letter, which he said laid out the reasoning for his claim. He emphasized that if he could get a job as a Mortgage Loan Processor/Closer, he would be happy to do so, but he doesn't have the requisite training, experience or license. He reiterated that he was not physically able to perform all the duties of a Concrete Batching and Ready Mix Concrete Plant Supervisor, and that he needed and was looking for a desk job. (Harvan.)

PRINCIPLES OF LAW

AS 23.30.001. Intent of the legislature and construction of chapter. It is the intent of the legislature that

1) This chapter be interpreted so as to ensure the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers . . .

AS 23.30.005. Alaska Workers' Compensation Board.

. . .
(h) . . . Process and procedure under this chapter shall be as summary and simple as possible.

The board may base its decision not only on direct testimony, medical findings, and other tangible evidence, but also on the board's "experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above." *Fairbanks North Star Borough v. Rogers & Babler*, 747 P.2d 528, 533-34 (Alaska 1987).

AS 23.30.041. Rehabilitation and reemployment of injured workers.

. . .
(d) Within 30 days after the referral by the administrator, the rehabilitation specialist shall perform the eligibility evaluation and issue a report of findings Within 14 days after receipt of the report from the rehabilitation specialist, the administrator shall notify the parties of the employee's eligibility for reemployment preparation benefits. Within 10 days after the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The hearing shall be held within 30 days after it is requested. The

board shall uphold the decision of the administrator except for abuse of discretion on the administrator's part.

(e) An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the employee will have permanent physical capacities that are less than the physical demands of the employee's job as described in the 1993 edition of the United States Department of Labor's 'Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles' for:

(1) the employee's job at the time of injury; or

(2) other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market, according to specific vocational preparation codes as described in the 1993 edition of the United States Department of Labor's 'Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles.'

...

(r) In this section

...

(4) 'physical capacities' means objective and measurable physical traits such as ability to lift and carry, walk, stand or sit, push, pull, climb, balance, stoop, kneel, crouch, crawl, reach, handle, finger, feel, talk, hear, or see;

(5) 'physical demands' means the physical requirements of the job such as strength, including positions such as standing, walking, sitting, and movement of objects such as lifting, carrying, pushing, pulling, climbing, balancing, stooping, kneeling, crouching, crawling, reaching, handling, fingering, feeling, talking, hearing, or seeing;

(6) 'rehabilitation specialist' means a person who is a certified insurance rehabilitation specialist, a certified rehabilitation counselor, or a person who has equivalent or better qualifications as determined under regulations adopted by the department;

...

The Alaska Supreme Court held in an eligibility case where there was no dispute over the correct job "title":

The language of AS 23.30.041(e) is clear — the Board must compare the physical demands of a specific job as found in SCODRDOT with the employee's physical capacities. . . .

Under the express language of AS 23.30.041(e), medical evidence of eligibility must satisfy three requirements: First, the evidence must take the form of a

prediction. Second, the person making the prediction must be a physician. Third, the prediction must compare the physical demands of the employee's job, as the U.S. Department of Labor describes them, with the employee's physical capacities.

Konecky v. Camco Wireline, Inc., 920 P.2d 277, 281 and n. 9; quoting *Yahara v. Construction & Rigging, Inc.*, 851 P.2d 69, 73 (Alaska 1996).

Employees are eligible for reemployment benefits if their physical capacities are less than the physical demands for their job title as described in the SCODRDOT. *Konecky* at 281; *Yahara* at 73; *Rydwell v. Anchorage Sch. Dist.*, 864 P.2d 526, 529 (Alaska 1993). It is irrelevant if the actual work demands in a particular employment situation are more or less than those defined in the SCODRDOT, or if a SCODRDOT description does not reflect the actual physical demands of a specific job. *Konecky* at 282. Enforcement of the statute's plain language promotes the legislative intent to ensure a prompt, efficient, more cost-effective, successful, and less litigated rehabilitation system. *Id.* at 282-283.

AS 23.30.130. Modification of awards.

(a) Upon its own initiative, or upon the application of any party in interest on the ground of a change in conditions, including, for the purposes of AS 23.30.175, a change in residence, or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of compensation benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case under the procedure prescribed in respect of claims in AS 23.30.110. Under AS 23.30.110 the board may issue a new compensation order which terminates, continues, reinstates, increases, or decreases the compensation, or award compensation.

The Alaska Supreme Court discussed AS 23.30.130(a) in *Interior Paint Company v. Rodgers*, 522 P.2d 161, 168 (Alaska 1974) quoting from *O'Keeffe v. Aerojet-General Shipyards, Inc.*, 404 U.S. 254, 256 (1971):

The plain import of this amendment [adding 'mistake in a determination of fact' as a ground for review] was to vest a deputy commissioner with broad discretion to correct mistakes of fact whether demonstrated by wholly new evidence, cumulative evidence, or merely further reflection on the evidence initially submitted.

An examination of all previous evidence is not mandatory whenever there is an allegation of mistake in determination of fact under AS 23.30.130(a). However, “[t]he concept of mistake requires careful interpretation. It is clear that an allegation of mistake should not be allowed to become a back-door route to retrying a case because one party thinks he can make a better showing on the second attempt.” 3 A. Larson, *The Law of Workmen's Compensation* Section 81.52 at 354.8 (1971); *Rodgers* at 169.

AS 23.30.130 has long been applied to changes in conditions affecting reemployment benefits and vocational status. *See, e.g., Griffiths v. Andy's Body & Frame, Inc.*, 165 P.3d 619 (Alaska 2007); *Imhof v. Eagle River Refuse*, AWCB Decision No. 94-0330 (December 29, 1994). The board may decide, based on evidence in the record upon conclusion of a hearing on modification, whether an employee is entitled to reemployment benefits. *See, e.g., Griffiths* at 624.

Right to board review under AS 23.30.130(a) arises whether or not a compensation order has been issued. The board may modify so long as the board's review process begins within one year of the last payment of compensation or the rejection of the claim. *See, e.g., Griffiths* at 623.

8 AAC 45.150. Rehearings and modification of board orders.

(a) The board will, in its discretion, grant a rehearing to consider modification of an award only upon the grounds stated in AS 23.30.130.

(b) A party may request a rehearing or modification of a board order by filing a petition for a rehearing or modification and serving the petition on all parties in accordance with 8 AAC 45.060.

(c) A petition for a rehearing or modification based upon change of conditions must set out specifically and in detail the history of the claim from the date of the injury to the date of filing of the petition and the nature of the change of conditions. The petition must be accompanied by all relevant medical reports, signed by the preparing physicians, and must include a summary of the effects which a finding of the alleged change of conditions would have upon the existing board order or award.

...

(e) A bare allegation of change of conditions or mistake of fact without specification of details sufficient to permit the board to identify the facts challenged will not support a request for a rehearing or a modification.

(f) In reviewing a petition for a rehearing or modification the board will give due consideration to any argument and evidence presented in the petition. The board, in its discretion, will decide whether to examine previously submitted evidence.

8 AAC 45.150(e) requires specific facts, not just a general allegation, of a change of conditions to serve as a basis for modification. *See, e.g., Lindhag v. State, Dep't of Natural Resources*, 123 P.3d 948, 957 (Alaska 2005).

8 AAC 45.525. Reemployment benefit eligibility evaluations.

...

(b) When interviewing the employee the rehabilitation specialist whose name appears on the referral letter shall obtain descriptions of the tasks and duties for other jobs the employee held or for which the employee received training within 10 years before the injury, and any jobs held after the injury. The rehabilitation specialist shall

(1) exercise due diligence to verify the employee's jobs in the 10 years before the injury and any jobs held after the injury;

(2) review the appropriate volume listed in (A.) or (B) of this paragraph and select the most appropriate job title or titles that describe the jobs held and training received; If the employee's Injury occurred

...

(B) on or after August 30, 1998, the rehabilitation specialist shall use the 1993 edition of the United States Department of Labor's Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles (SCODRDOT) unless, under AS 23.30.041(p), the board has designated a later revision or version of that volume;

(3) identify all job titles identified under (2) of this subsection for which the employee meets the specific vocational preparation codes as described in the volume; and

(4) submit ail job titles identified under (3) of this subsection to the employee's physician, the employee, the employer and the administrator; if the physician predicts the employee will have permanent physical capacities equal to or greater than the physical demands of a job or jobs submitted under this paragraph, the rehabilitation specialist shall conduct labor market research to determine whether the job or jobs exist in the labor market as defined in AS 23.30.041(r)(3).

8 AAC 45.530. Determination on eligibility for reemployment benefits.

(a) Within 14 days after receiving a rehabilitation specialist's eligibility evaluation report for an employee Injured on or after July 1, 1988, the

administrator will determine whether the employee is eligible or ineligible for reemployment benefits, or that insufficient information exists to make a determination on the employee's eligibility for reemployment benefits. The administrator will give the parties written notice by certified mail of the determination, the reason for the determination, and how to request review by the board of the determination.

...

ANALYSIS

Should the RBA designee's determination that Employee is eligible for reemployment benefits be modified?

Employee contends the RBA designee's determination that Employee is not eligible for reemployment benefits should be modified because it was based on incorrect facts, and a revised report and additional information are now available. The Supreme Court has authorized broad discretion to correct mistakes of fact whether demonstrated by wholly new evidence, cumulative evidence, or merely further reflection on the evidence initially submitted. *Rodgers; O'Keefe*. AS 23.30.130 has long been applied to changes in conditions affecting reemployment benefits and vocational status. *Griffiths; Imhof*. The board may decide, based on evidence in the record upon conclusion of a hearing on modification, whether an employee is entitled to reemployment benefits. *Griffiths*.

Because the early stages of Employee's eligibility determination process were clouded by errors and confusion, a review is useful to place the October 15, 2014 claim in context:

1. Dr. Deshmukh initially misunderstood the form sent to him by rehabilitation specialist Najarian, and on August 13-20, 2014, illogically predicted Employee would have the permanent physical capacities to perform the physical demands for his job at the time of injury, a Tallier, rated as a light-strength job, but would not have the permanent physical capacities to work in the sedentary positions of Mortgage Loan Closer and Mortgage Loan Processor.

2. Ms. Najarian misread Dr. Deshmukh's predictions and believed Employee would *not* have the permanent physical capacities to perform his job at the time of injury. Because she thought the only job Dr. Deshmukh predicted Employee would have the permanent physical capacities to perform was one he held in the 10 years before his injury, represented by the DOT/SCODRDOT job descriptions for Mortgage Loan Closer and Mortgage Loan Processor, Ms. Najarian conducted research to document the existence of that job in the labor market, as required under 8 AAC 45.525(b)(4). Ms. Najarian determined that Mortgage Loan Closer/Processor jobs exist in the labor market, and consequently, on August 27, 2014, she recommended Employee be found not eligible for reemployment benefits on that basis.
3. The RBA designee then contacted Ms. Najarian, who confirmed she had mistakenly overlooked Dr. Deshmukh's prediction Employee would have the permanent physical capacities to perform his job at the time of injury, a Tallier. On September 30, 2014, the designee consequently found Employee not eligible on that basis, pursuant to 23.30.041(e)(1).
4. Dr. Deshmukh subsequently realized his misunderstanding of Ms. Najarian's form, and corrected his predictions to indicate Employee would *not* be able to work as a Tallier, but would have the permanent physical capacities to work as a Mortgage Loan Closer/Processor. This conformed to Ms. Najarian's original understanding of Dr. Deshmukh's opinions. Therefore, on October 3, 2014, she reiterated her prior recommendation that Employee be found not eligible for reemployment benefits, pursuant to 23.30.041(e)(2) and 8 AAC 45.525(b)(4), because Dr. Deshmukh had predicted he would have the physical capacity to work as a Mortgage Loan Closer/Processor, and that job exists in the labor market.

As the RBA's October 8, 2013 voicemail message to Employee indicated, the Act does not authorize the RBA designee on her own motion to reconsider an eligibility decision, absent the agreement of the parties. Consequently Employee filed his October 15, 2014 claim, accurately stating Ms. Najarian's August 27, 2014 specialist report was incorrect, as it was based on Dr. Deshmukh's erroneous predictions. Employee asked for a review of the reemployment benefit decision, asserting a "revised report dated [October 3, 2014] has been submitted with corrections, but lacks pertinent information." The October 15, 2014 claim therefore functions as a request for modification of an award based on a mistake in a determination of fact, demonstrated by both wholly new evidence and further reflection on the evidence initially submitted. AS 23.30.130(a); *Rodgers; O'Keefe*.

The "pertinent information" Employee believed was missing from the revised specialist report concerned two issues, one of which was moot. Employee noted the October 3, 2014 report failed to address the Concrete Batching and Mixing Plant Supervisor position. Employee testified this had been his primary occupation over the years, and what he was most qualified to do, but his physical limitations precluded him from returning to that job. Employee thereby agreed with Dr. Deshmukh's prediction, since a physician's opinion an employee "will have restrictions" with regard to a particular job as described in the SCODRDOT constitutes the functional and legal equivalent of predicting the employee will not have the permanent physical capacity to perform the physical demands of that job. In a nutshell, there was no need for Ms. Najarian to reconsider the Concrete Batching and Mixing Plant Supervisor position, because Dr. Deshmukh had not changed his initial prediction Employee would not be able to perform that job, and Employee agreed with that assessment.

Employee's second issue raised practical impediments to returning to work as a Mortgage Loan Closer/Processor. He testified he had limited experience, having worked as an self-employed, independent contractor under the license of a Real Estate Broker for only three years, from 2003-2006. He testified both his real estate salesperson license and his license to practice mortgage lending have expired. Moreover, due to legal changes in the profession in the last eight years, Employee testified he would need considerable training before he could be successfully employed in this field again, and therefore he requested "reemployment benefits, at least to some degree."

Employee clearly articulated both his desire to return to gainful employment, and the logistical obstacles he would have to overcome to do so. However the statutory language of AS 23.30.041(e) clearly and unambiguously bases eligibility for reemployment benefits solely on physical capacities and demands. Pursuant to 23.30.041(e)(2) and 8 AAC 45.525(b)(4), Employee was found not eligible for reemployment benefits because Dr. Deshmukh predicted he would have the physical capacity to work as a Mortgage Loan Closer/Processor, and that job exists in the labor market. In the absence of an eligibility determination, the Act does not provide a mechanism to help Employee acquire the actual training, experience or licensing he would need to successfully reenter the job market. While this may seem harsh, enforcement of the statute's plain language promotes the legislative intent to ensure a prompt, efficient, more cost-effective, successful, and less litigated rehabilitation system. *Konecky*.

CONCLUSION OF LAW

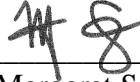
1. The RBA designee's determination that Employee is eligible for reemployment benefits should not be modified.

ORDER

1. Employee's October 15, 2014 appeal of the RBA designee's September 30, 2014 decision finding him not eligible for reemployment benefits is denied.
2. The RBA designee's September 30, 2014 determination that Employee is not eligible for reemployment benefits will not be modified.

Dated in Anchorage, Alaska on December 23, 2014.

ALASKA WORKERS' COMPENSATION BOARD



Margaret Scott, Designated Chair

Linda Hutchings, Member

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 JOSEPH HARVAN, employee / claimant; v. ADAK COD COOPERATIVE, LLC, employer; ALASKA NATIONAL INSURANCE COMPANY, insurer / defendants; Case No. 201404956; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties on December 23, 2014.

Vera James, Office Assistant