ALASKA WORKERS' COMPENSATION BOARD

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

JOSE INIGUEZ QUINONEZ, Employee, Claimant, v. TRIDENT SEAFOODS, Employer, and LIBERTY INSURANCE CORPORATION, Insurer, Defendants.	FINAL DECISION AND ORDER AWCB Case No. 201614882 AWCB Decision No. 22-0063 Filed with AWCB Anchorage, Alaska on September 14, 2022

Jose Iniguez Quinonez's (Employee) September 21, 2017 and April 23, 2019 claims for medical benefits for his left foot were heard on August 30, 2022, in Anchorage, Alaska, a date selected on June 23, 2022. A May 2, 2022 request gave rise to this hearing. Employee appeared telephonically, testified and represented himself. Attorney Jeffrey Holloway appeared telephonically and represented Trident Seafoods and Liberty Insurance Corporation (Employer). Two interpreters at different times during the hearing interpreted from English to Spanish and from Spanish to English. The record closed at the hearing's conclusion on August 30, 2022.

ISSUE

Employee contends he injured his left foot while working for Employer on February 14, 2016. Alternately, he contends his left foot injury is cumulative and arose from his work. He contends this decision should order Employer to pay for medical care for his left foot.

Employer contends it accepted Employee's left foot injury and paid his medical expenses through September 2017. But it contends the admissible and persuasive medical evidence suggests Employee had only a temporary aggravation of an asymptomatic foot condition that resolved by February 14, 2017. Employer further contends Employee failed to obtain, file and serve timely medical records and associated bills so Employer could process and pay them. Therefore, it alternately contends that Employee's right to have Employer pay those bills is barred.

Does Employer have to pay Employee's left foot medical bills?

FINDINGS OF FACT

A preponderance of the evidence establishes the following facts and factual conclusions:

1) On February 15, 2016, Employee reported to the Akutan Clinic that he had twisted his "right ankle" the day prior, February 14, 2016. There was no mention of a left foot injury. (Akutan Clinic note, February 15, 2016).

2) On June 20, 2016, Employee had a shoulder examination. His lower extremity examinations were completely normal, he had no gait disruption, and he could heel- and toe-walk without difficulty. (Patrick Bays, DO, report, June 20, 2016).

3) On August 18, 2016, Employee made his first recorded report to a physician of left foot pain. Michael Erickson, MD, noted Employee was homeless and walked "extensively during the day carrying his backpack." He diagnosed left foot pain and flexor hallucis longus tendinitis, which he associated with "overuse" and "likely related to patient's current homelessness extensive walking and poorly supportive shoes." Dr. Erickson could not "clearly attribute this to a work-related injury" because it had gotten worse over the last two months after Employee had been home from his work with Employer. (Erickson report, August 18, 2016).

4) On September 15, 2016, Employee reported still spending "a lot of time on his feet." His left foot continued to hurt but there was no swelling or new injury. Left foot x-rays were normal. Dr. Erickson continued Employee on physical therapy (PT) and recommended a foot orthotic. (Erickson report, September 15, 2016).

5) On September 23, 2016, Employee told PT, "patient still wants this foot injury to be on his work claim, says work was when the injury happened, but it was documented incorrectly." (PT report, September 23, 2016).

6) On October 14, 2016, Employee told PT he had to get a new backpack because the old one weighed too much and was hurting his foot. (PT report, October 14, 2016).

7) On November 2, 2016, PT discharged Employee from therapy in part because his foot was not improving and because of his offensive, racial slurs. (PT report, November 2, 2016).

8) On February 21, 2017, left foot magnetic resonance imaging (MRI) was unremarkable except for fluid in the tendon sheath, "compatible with tenosynovitis." (MRI report, February 21, 2017).

9) On March 3, 2017, Erickson recommended additional PT for Employee's left foot, and attributed his continued foot pain with increased physical activity. He opined Employee's tendinitis was "more" related to "persistent overuse and consistent re-injury after an injury that started when the patient was in Alaska." (Erickson report, March 3, 2017).

10) On March 30, 2017, a new PT provider advised Employee to limit his walking and wear supportive footwear. (PT report, March 30, 2017).

11) On April 26, 2017, the new PT provider discharged Employee from treatment after he made inappropriate racial comments in the clinic. He had previously stated PT was not helping his left foot. (PT report, April 26, 2017).

12) On May 26, 2017, Dr. Erickson injected corticosteroids into Employee's left foot. (Erickson report, May 26, 2017).

13) On June 29, 2017, Employee reported the foot injection helped alleviate some foot pain but now he had pain up into his big toe and into his heel. (Erickson report, June 29, 2017).

14) On July 6, 2017, Employee said he had five hours of complete pain relief but "then return of symptoms." Dr. Erickson's diagnosis became left-sided medial plantar neuropathy and he recommended median nerve entrapment release. (Erickson report, July 6, 2017).

15) On July 26, 2017, Employer's adjuster arranged for a Spanish language interpreter to be present at an employer's medical evaluation (EME) scheduled for Employee on August 19, 2017. (Sherri Arbuckle email, July 26, 2017).

16) On August 9, 2017, a third PT provider discharged Employee from treatment because he missed two appointments. (PT report, August 9, 2017).

17) On August 19, 2017, orthopedic surgeon Eugene Toomey, MD, saw Employee for an EME with a Spanish language interpreter present. Employee reported he hurt his left foot pushing carts on February 14, 2016, and was discharged from employment for violating company policy by "cursing at safety personnel." Dr. Toomey, who was "ready to stop the exam with his outbursts,"

recorded that Employee was mad because Employer "treated him like a mule." He told Dr. Toomey that when he lived in Seattle he was homeless but "was not doing a lot of walking on this foot." Dr. Toomey recorded Employee stating, "He rides his bike as long as 40 miles a day." Dr. Toomey diagnosed left foot tendinitis secondary to work activities, resolved; and plantar fasciitis, mild but unrelated to the work activities. In his opinion, though Employee could have suffered tendinitis in his left foot pushing carts, "this condition is completely resolved." Dr. Toomey opined Employee otherwise has mild plantar fasciitis in his left foot that was not caused or aggravated by his work. In his opinion, Employee needed no further work-related treatment for his left foot. Employee had no exam findings supporting Dr. Erickson's diagnosis of medial plantar neuropathy. Dr. Toomey opined Employee's left foot reached medical stability with no ratable impairment. In his opinion, work-related treatment resolved by mid-July 2017. In Dr. Toomey's view, Employee could return to his job held at the time of his injury. (Toomey report, August 19, 2017).

18) On September 2, 2017, Employee went to an emergency room and complained of left foot pain, with "tendinitis in both feet." The examiner determined his left foot pain was exacerbated by walking and carrying a heavy backpack. (Shannon O'Keefe, MD, report, September 2, 2017).

19) On September 11, 2017, Employee told Doug Hale, DPM, that his burning, achy and dull discomfort on the bottom of his left arch was "of a sudden onset" and his symptoms had been present for "12.5 months and have stayed the same." Activities and walking aggravated his symptoms. Dr. Hale opined Employee's left foot was medically stable and was not amenable to surgery. (Hale report, September 11, 2017).

20) On September 21, 2017, Employee requested temporary total disability benefits, an unfair or frivolous controversion finding and medical costs for his left foot. He contended that on February 14, 2016, he had, "Pain in left foot from pushing and pulling heavy racks." Employee contended he needed more medical care and could not work because of this injury. (Claim for Workers' Compensation Benefits, September 21, 2017).

21) On October 19, 2017, Employee reported "right greater than left" foot pain and Dr. Erickson diagnosed bilateral tendinitis and medial plantar nerve neuropathy. (Erickson report, October 19, 2017).

22) On January 11, 2018, Dr. Erickson reported Employee had been diagnosed with hyperthyroidism. Employee had not started treatment, but Dr. Erickson thought hyperthyroidism

was not likely the etiology of his left foot neuropathic pain but "may be contributing to its prolonged course." (Erickson report, January 11, 2018).

23) On January 18, 2018, Dr. Erickson recorded Employee had seen a podiatrist on his referral, who felt he was not a surgical candidate for his left foot. (Erickson report, January 18, 2018).

24) On February 1, 2019, orthopedic surgeon Peter Diamond, MD, saw Employee for a second independent medical evaluation (SIME). In respect to his feet, Employee reported tenderness at the first and second web spaces dorsally and at the plantar facia diffusely on both his left and right feet. Not including his right shoulder diagnoses, Dr. Diamond said Employee's "diagnoses not specifically related to the 2/14/16 injury would include: Flexor hallucis longus tendinitis, both feet, with suggestion of peripheral neuropathy." He further opined, "I would estimate that the shoulder and foot conditions contributed approximately equally to the need for treatment and the disability for the first year, following which treatment and disability regarding [the] foot condition would reasonably be attributed to non-industrial factors." Dr. Diamond further stated:

> The examinee also gives a history of left foot pain while working after this injury, stating that this was of gradual onset, with sudden worsening, although he is not sure when.
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> It would be my opinion, to a reasonable degree of medical probability, that work activities caused a temporary aggravation of an underlying asymptomatic flexor hallucis longus tendinitis, but it would also be my opinion that the work activities are no longer a substantial factor in the continuing symptoms of the foot, nor are they a factor in the continuing disability secondary to the foot symptoms.
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> Further treatment of the foot would reasonably include a set of nerve conduction studies, a neurologic consultation to rule out underlying metabolic peripheral neuropathy, and a trial of gabapentin or Lyrica and anti-inflammatory medication.
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> Continued use of orthotics would be appropriate. The old orthotics are too worn out and he requires a new set of orthotics.
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> Again, it should be emphasized that this should be pursued on a non-industrial basis at this point in time, but that treatment for the initial year of treatment following onset of symptoms would have been related to an aggravation at work. (Diamond report, February 1, 2019).

25) On April 23, 2019, through his previous attorney, Employee renewed his request for disability and impairment benefits and medical costs for left foot, and added his right shoulder and

a claim for medical-related transportation costs, interest and attorney fees and costs. (Claim for Workers' Compensation Benefits, April 23, 2019).

26) On January 23, 2020, foot specialist Joseph Fiorito, DPM, diagnosed Employee with bilateral plantar fasciitis and "other polyneuropathy." (Fiorito report, January 23, 2020).

27) On July 7, 2020, Midori Higashi, DPM, saw Employee for his feet and concluded his symptoms were most consistent with a posterior tibial tendon injury. He recommended an MRI for further evaluation. (Higashi report, July 7, 2020).

28) On July 17, 2020, Employee's left foot MRI showed a normal posterior tibial tendon, but also revealed tendinosis, mild tenosynovitis and small osteophytes elsewhere in the foot. (MRI report, July 17, 2020).

29) On July 21, 2020, Employee reported symptoms were more in his arch area. Dr. Higashi concluded he may have a plantar fascial strain, which could have been caused from "lunging forward motion from pushing the fish carts." (Higashi report, July 21, 2020).

30) On October 20, 2021, Employer filed with the Board and served on Employee 437 pages of documents including evidence that Employer paid Employee's left foot medical bills well into 2017. This evidence includes billing statements, and checks the adjuster wrote to Employee's various providers. (Affidavit of Service/Notice of Intent to Rely, October 20, 2021).

31) At hearing on August 30, 2022, Employee testified that on February 14, 2016, he was stacking fish racks for Employer and the wheels on the racks were not working properly. The next day his left foot started hurting but he went to work anyway, and his pain got worse. Employee eventually went to the office and told his supervisor about his situation and got fired. When he went to the onsite clinic, the nurse wrote down it was his right foot, but it was his left. Employee listed the physicians he saw in the Seattle area and when he moved to Arizona. In Arizona he saw a physician at Southwest Foot and Dr. Fiorito. Employee later saw Dr. Higashi but could not recall how he found out about him. According to Employee, EME Dr. Toomey did not want him to have an interpreter even though Dr. Toomey did not speak Spanish. (Employee).

32) Employee contends Dr. Toomey is biased and gets paid by Employer to give opinions. By contrast, he contends he only had "cheap doctors" taking care of him. As for riding his bicycle 40 miles a day, Employee contends there is "no evidence of that." He contends Employer should be responsible and required to pay for medical treatment for his feet including special shoes.

Employee contends Holloway is responsible for him getting beaten up on the street. Employee acknowledged he had a fair opportunity to present his case at hearing. (Employee).

33) Employer contends, contrary to Employee's assertions, it provided an interpreter for Employee at Dr. Toomey's examination. It contends it accepted Employee's left foot injury and paid for it until late 2017. Employer relies in part on Dr. Erickson's records that show Employee admitted he repeatedly re-injured his left foot by excessive walking or bicycle riding. It also relies on Dr. Toomey's opinions stating Employee's left foot tendinitis had resolved fully and was not present when Dr. Toomey examined him. Rather, based on Employee's self-report that he rode his bicycle 40 miles a day, it contends his walking with a heavy backpack and bicycle riding is what caused his bilateral foot pain. Employer contends SIME Dr. Diamond agreed Employee's left foot injury resolved within one-year post-injury, or by February 2017. Moreover, it contends the Board must exclude some medical records from evidence because Employee made unlawful changes in his attending foot physician after he went from Dr. Erickson to Andrea Beam, DPM, and then saw Dr. Fiorito. Employer contends there is no evidence of a referral to Dr. Higashi. Employer further contends it paid Employee's left foot medical bills through September 11, 2017, and he failed to prove his claim for medical benefits for his left foot because he has not filed or served any additional medical records and associated bills in a timely fashion. Further, even were the Board to consider the more recent medical records that Employer considers unlawful changes, it contends those records provide no valid causation opinions. Employer contends the Board should rely more heavily on Drs. Toomey and Diamond who have reviewed all of Employee's medical records back to 2016, while other physicians seeing him have not. (Record).

34) Plantar fasciitis is a common condition that often comes with aging and no specific injury. (Experience; observations).

PRINCIPLES OF LAW

The Board may base its decision on not only 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 23.30.010. Coverage**. (a) . . . compensation or benefits are payable under this chapter . . . for medical treatment of an employee if the . . . employee's need for medical treatment arose out of and in the course of the employment. When determining whether . . . the . . . need for medical treatment arose out of and in the course of the employment, the board must evaluate the relative contribution of different causes of the . . . need for medical treatment. Compensation or benefits under this chapter are payable for the . . . need for medical treatment if, in relation to other causes, the employment is the substantial cause of the . . . need for medical treatment.

> **AS 23.30.095. Medical treatments, services, and 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. . . . 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. . . .

Philip Weidner & Associates, Inc. v. Hibdon, 989 P.2d 727 (Alaska 1999), addressed the requirement in AS 23.30.095(a) for an employer to provide treatment within the first two years following an injury, contrasted to its obligation to provide treatment more than two years post-injury. Finding the injured worker had filed her claim for medical benefits within two years post-injury, *Hibdon* stated, "Therefore, her claim may be reviewed only to determine whether the treatment she sought in her claim was reasonable and necessary." However, *Hibdon* addressed the type of medical treatment recommended and its timing, not whether the work injury was the substantial cause of the need for any treatment.

Butts v. Department of Labor & Workforce Development, 467 P.3d 231, 245 (Alaska 2020), distinguished *Hibdon* and said, "If the conditions requiring treatment were not compensable injuries, the State had no obligation under AS 23.30.095(a) to furnish medical care to treat them." This rule applies to injuries that were once compensable, but the Board determined were no longer compensable after a certain date, based on expert medical opinions that something else became the substantial caused of the employee's disability or need for treatment. (*Id*.).

> **AS 23.30.097. Fees for medical treatment and services**. . . .

> (d) An employer shall pay an employee's bills for medical treatment under this chapter, excluding prescription charges or transportation for medical treatment, within 30 days after the date that the employer receives the provider's bill or a completed report as required by AS 23.30.095(c), whichever is later.
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> (h) A provider of medical treatment or services may receive payment for medical treatment and services under this chapter only if the bill for services is received by the employer within 180 days after the later of
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> (1) the date of service; or
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> (2) the date that the provider knew of the claim and knew that the claim related to employment.
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> (i) A provider whose bill has been denied or reduced by the employer may file an appeal with the board within 60 days after receiving notice of the denial or reduction. A provider who fails to file an appeal of a denial or reduction of a bill within the 60-day period waives the right to contest the denial or reduction. . . .
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> **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
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> (1) the claim comes within the provisions of this chapter; . . .

Benefits sought by an injured worker are presumptively compensable and the presumption applies to any claim for compensation under the Act. *Meek v. Unocal Corp*., 914 P.2d 1276 (Alaska 1996). The presumption's application involves a three-step analysis. To attach the presumption, and without regard to credibility, an injured employee must first establish a "preliminary link" between his injury and the employment. *Tolbert v. Alascom, Inc.*, 973 P.2d 603, 610 (Alaska 1999). Once the presumption attaches, and without regard to credibility, the employer must rebut the raised presumption with "substantial evidence." *Huit v. Ashwater Burns, Inc*., 372 P.3d 904 (Alaska 2016). If the employer's evidence rebuts the presumption, it drops out and the employee must prove his claim by a preponderance of the evidence. *Id*. This means the employee must "induce a belief" in the fact-finders' minds that the facts being asserted are probably true. *Saxton v. Harris*, 395 P.2d 71, 72 (Alaska 1964). In the third step, evidence is weighed, inferences are drawn, and credibility is considered. *Huit*.

> **AS 23.30.122. Credibility of witnesses**. The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded a witness's testimony, including medical . . . reports, is conclusive even if the evidence is conflicting or susceptible to contrary conclusions. . . .

The Board's credibility findings and weight accorded to evidence are "binding for any review of the Board's factual findings." *Smith v. CSK Auto, Inc.,* 204 P.3d 1001, 1008 (Alaska 2009). When doctors' opinions disagree, the Board determines which has greater credibility. *Moore v. Afognak Native Corp.*, AWCAC Dec. No. 087 at 11 (August 25, 2008).

> **8 AAC 45.082. Medical treatment**. . . .
> . . . .
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> (d) Medical bills for an employee's treatment are due and payable no later than 30 days after the date the employer received the medical provider's bill . . . and a completed report in accordance with 8 AAC 45.086(a) . . . and an itemization of the prescription numbers or an itemization of the dates of travel, destination, and transportation expenses for each date of travel. . . .

ANALYSIS

Does Employer have to pay Employee's left foot medical bills?

Employee contends Employer should have to pay his past and ongoing left foot medical bills related to his work injury. Relying primarily on the EME and SIME physicians' opinions, Employer contends it should not. AS 23.30.095(a). This issue raises factual disputes to which the presumption of compensability analysis applies. AS 23.30.120(a)(1); *Meek*. Employee raised the presumption that his left foot medical bills are compensable with his testimony and Dr. Erickson's medical opinions. *Tolbert*. Employee testified his left foot pain began while pushing fish carts for Employer and as time went on his symptoms got progressively worse. He testified that even after he stopped working for Employer, his ongoing, worsening left foot symptoms arose from his previous work for Employer. Dr. Erickson suggested Employee's left foot symptoms arose from his work injury with Employer. Employer rebutted the raised presumption with opinions from Drs. Diamond and Toomey. *Huit*. Both opined that while Employee had a temporary left foot injury, it resolved by either February 2017 or December 2017, respectively. Their opinions make the presumption drop out and Employee must prove his claim for past and ongoing left foot medical benefits by a preponderance of the evidence. *Saxton*.

Employee primarily relies on his own testimony concerning his left foot injury and its symptomatic progression. But he is a layperson and not a foot expert, so his lay opinion is given little weight. AS 23.30.122; *Smith*; *Huit*. Moreover, his initial medical record references a right foot injury. Employee stated this was an error and it was his left foot all along. Assuming the nurse made an error in Employee's initial reporting, Employee's hearing testimony nonetheless raises a separate credibility concern. He testified that Dr. Toomey tried to perform his EME without an interpreter and even suggested Employee did not need one. From the panel's experience, this is unlikely because if it were true, the lack of an interpreter could weaken his opinions, which is not something Dr. Toomey would knowingly do. *Rogers & Babler*. Further, Dr. Toomey's report clearly states an interpreter was present; this is supported by adjuster Arbuckle's July 26, 2017 email arranging for the interpreter to be present at Dr. Toomey's examination. Therefore, Employee's testimony about the interpreter at his EME with Dr. Toomey is not credible and weakens his overall credibility including his symptom reporting and timing. AS 23.30.122; *Smith*; *Huit*.

Employee also relies on Dr. Erickson's opinions suggesting his left foot symptoms arose from his work injury with Employer. But Dr. Erickson initially associated his symptoms with "overuse" and "likely related to patient's current homelessness extensive walking and poorly supportive shoes." He could not "clearly attribute this to a work-related injury" because it got worse after Employee had been home from work. Extensive walking sounds more like "the substantial cause" of his symptoms than a past cumulative trauma injury at work. Moreover, Dr. Erickson attributed Employee's foot problems, which subsequently became bilateral, with overuse, walking while carrying a heavy backpack and riding his bicycle -- all things Employee did regularly after he left his work with Employer. Dr. Erickson's opinions are given some credibility and weight, but cut more in Employer's favor than in Employee's. AS 23.30.122; *Smith*; *Moore*; *Huit*.

In addition to relying somewhat on Dr. Erickson's opinions discussed above, Employer relies on Drs. Toomey and Diamond. Dr. Toomey stated Employee had plantar fasciitis, but experience shows this condition is common, and Dr. Toomey said in this instance not work-related. *Rogers & Babler*. The only condition he could connect with Employee's work was flexor hallucis longus tendinitis, which Dr. Toomey opined was resolved by no later than August 19, 2017. In his view, Employee needed no further treatment for this condition, and no other condition or symptoms were

work-related. Dr. Toomey benefited from reviewing more records than most other physicians and his opinion is consistent with Dr. Erickson's initial opinions. Thus, Dr. Toomey's opinion is given more weight. AS 23.30.122; *Smith*; *Moore*; *Huit*.

Employer also relies on Dr. Diamond's opinions. He too reviewed more medical records in chronological context than most other physicians who saw Employee. Dr. Diamond concurred for the most part with Dr. Toomey's opinions, but found Employee's flexor hallucis longus tendinitis had resolved within one year, or by February 14, 2017. He was confident Employee's other left foot symptoms, which now appeared on the right foot as well, were not related to his work with Employer. The fact Employee now has similar right foot symptoms points to a cause other than his work with Employer, because other than a nurse's initial report that Employee said was a reporting error, there is no evidence Employee did anything to his right foot while working for Employer. The development of symptoms in Employee's right foot strengthens Drs. Toomey's and Diamond's opinions. AS 23.30.122; *Smith*; *Moore*; *Huit*. Dr. Diamond's opinion is most credible and persuasive and demonstrates that Employee's work-related foot symptoms and the need to treat them resolved by February 14, 2017. As the independent medical evaluator, SIME Dr. Diamond's opinions are given the greatest weight. AS 23.30.122; *Smith*; *Moore*. Therefore, Employee's claim for past and ongoing medical benefits for his left foot will be denied as his work for Employer is no longer the substantial cause of his need for treatment effective February 14, 2017, and his initial left foot injury is no longer compensable. AS 23.30.010(a). *Hibdon*; *Butts*.

Were this decision to consider reports from Drs. Fiori and Higashi, their limited opinions would make no difference in this analysis because they would be given less weight than Dr. Toomey's and Dr. Diamond's opinions. Neither Dr. Fiori nor Dr. Higashi was privy to Employee's extensive medical records as were the EME and SIME physicians. Moreover, neither physician provided any causation analysis supporting what little opinions they offered. They would be given little if any weight. AS 23.30.122; *Smith*; *Moore*; *Huit*. Given this analysis, this decision will not reach Employer's request to strike their reports as unlawful physician changes.

Employer had no obligation to pay any left foot bills until 30 days after it received the medical records and associated billings. 8 AAC 45.082(d). If a provider failed to send records and

associated bills to Employer's adjuster within 180 days after the service date in accordance with the law, they cannot receive payment for those bills. If a provider failed to make a claim for its bills within 60 days of denial, the provider lost its right to obtain payment. AS 23.30.097(d), (h), (i). Moreover, in October 2021, Employer filed and served evidence showing it paid Employee's providers for his left foot injury well into at least mid-2017, long after Dr. Diamond's opinion that the left foot injury resolved by February 14, 2017. Employee presented no evidence suggesting Employer owes any payments to past medical providers regarding Employee's left foot through February 14, 2017. His request for an order requiring Employer to pay past and ongoing medical benefits for his left foot will be denied.

CONCLUSION OF LAW

Employer does not have to pay Employee's left foot medical bills.

ORDER

Employee's September 21, 2017 and April 23, 2019 claims for past and ongoing medical benefits for his left foot are denied.

Dated in Anchorage, Alaska on September 14, 2022.

ALASKA WORKERS' COMPENSATION BOARD

/s/
William Soule, Designated Chair

/s/
Pam Cline, 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 board 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 Jose Iniguez Quinonez, employee / claimant v. Trident Seafoods, employer; Liberty Insurance Corporation, insurer / defendants; Case No. 201614882; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties by certified US Mail on September 14, 2022.

/s/
Kimberly Weaver, Office Assistant