

**FILED: December 27, 2012**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of the Compensation of  
Patricia G. Haley, Claimant.

SAIF CORPORATION  
and OREGON DENTAL CARE,  
Petitioners,

v.

PATRICIA G. HALEY,  
Respondent.

Workers' Compensation Board  
0805156

A143176

On remand from the Oregon Supreme Court, *SAIF v. Haley*, 352 Or 564, \_\_\_P3d \_\_\_ (2012).

Submitted on remand November 29, 2012.

David L. Runner for petitioners.

Christopher D. Moore and Malagon, Moore & Jensen for respondent.

Before Schuman, Presiding Judge, and Wollheim, Judge, and Nakamoto, Judge.

PER CURIAM

Affirmed.

1 PER CURIAM

2 This case is on remand from the Supreme Court, *SAIF v. Haley*, 352 Or  
3 564, \_\_\_ P3d \_\_\_ (2012). In our prior decision, we held that claimant was not entitled to  
4 an insurer-paid attorney fee under ORS 656.382(2) because she did not prevail at the  
5 hearing, which SAIF requested. We relied on our decision in [SAIF v. DeLeon](#), 241 Or  
6 App 614, 251 P3d 794 (2011), but the Supreme Court reversed, [SAIF v. DeLeon](#), 352 Or  
7 130, 282 P3d 800 (2012), and held that the claimant was entitled to an insurer-paid  
8 attorney fee under the same circumstances as here. On remand, we affirm the Workers'  
9 Compensation Board's order.

10 Claimant sustained a January 2007 left shoulder compensable injury. An  
11 April 2008 notice of closure did not award claimant any permanent disability. Claimant  
12 requested reconsideration. An August 2008 order on reconsideration awarded claimant  
13 15 percent whole person impairment. SAIF requested a hearing, challenging the award  
14 of impairment. The administrative law judge (ALJ) modified the order on  
15 reconsideration and reduced the award of whole person impairment to zero. In other  
16 words, the ALJ reinstated SAIF's notice of closure. Claimant requested board review.  
17 The board reinstated the order on reconsideration award of 15 percent whole person  
18 impairment. The board awarded an assessed attorney fee under ORS 656.382(2) because  
19 SAIF requested the hearing and claimant's compensation was not ultimately reduced or  
20 disallowed. As mentioned above, we reversed the award of attorney fees under ORS

1 656.382(2).<sup>1</sup>

2           In *DeLeon*, the Supreme Court reversed our decision that the claimant was  
3 not entitled to an award of assessed attorney fees under ORS 656.382(2). 353 Or at 143.  
4 There is no material difference between *DeLeon* and this case. Accordingly, we hold that  
5 claimant is entitled to the assessed attorney fees awarded by the board for claimant  
6 prevailing as a result of SAIF's request for hearing.

7           Affirmed.

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<sup>1</sup> ORS 656.382(2) provides, in part:

"If a request for hearing \* \* \* is initiated by an employer or insurer, and the \* \* \* board \* \* \* finds that the compensation awarded to a claimant should not be disallowed or reduced, \* \* \* the employer or insurer shall be required to pay to the claimant or the attorney of the claimant a reasonable attorney fee in an amount set by the board \* \* \* for legal representation by an attorney for the claimant at and prior to the hearing \* \* \*."