

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

1 **IN RE: ROBERT B. JONES**) **DOCKET NO. 18 17363**
2)
3 **CLAIM NO. AT-68965**) **DECISION AND ORDER**
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5 In 2013, Robert B. Jones fell down several stairs and fractured his right heel, spine, and teeth
6 while working at the Sea-Tac Inn. A Department letter denied authorization for payment of unrelated
7 dental work. Mr. Jones requests treatment of teeth-unrelated to this claim and replacement of the
8 accepted teeth with implants and crowns. Although the letter did not address the specifics of
9 treatment to be provided, our industrial appeals judge framed the issue as a dispute as to what is
10 proper and necessary treatment and concluded that the Department's proposed creation of
11 permanent partial dentures to replace Mr. Jones' temporary partial dentures was proper and
12 necessary treatment, while the request for implants was not. The claimant argues that the
13 Department plan of permanent partial dentures requires removal of certain teeth at claimant's own
14 expense, but that implants would not require the removal of unrelated teeth. We conclude that both
15 dentures and implants meet the requirement for proper and necessary treatment, Mr. Jones requires
16 a reassessment as recommended by all doctors, and it was premature to deny Mr. Jones' request for
17 implants.¹ To the extent the letter under appeal required that Mr. Jones pay for extraction of teeth at
18 his own expense, we disagree and would require the Department to pay for the extractions as
19 necessary to allow for the proper fitting of permanent partial dentures, should that be the treatment
20 finally pursued. We **REVERSE** the Department's letter dated July 20, 2018, and **REMAND** the claim
21 to the Department to allow for a reassessment and treatment related to the accepted teeth as
22 recommended by Mr. Jones' treating physician and including but not limited to extraction of unrelated
23 teeth if necessary to accommodate permanent partial dentures.
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DISCUSSION

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35 In 2013, Mr. Jones fell down several stairs while working for Sea-Tac Inn. He fractured his
36 right heel, spine, and teeth. Following several surgeries to repair his foot, and while exiting his tub,
37 his right foot collapsed. His jaw hit the toilet, resulting in additional fractured teeth. Post injury x-rays
38 showed teeth fractures at 9, 10, and 11. The Department accepted five teeth as related to the 2013
39 injury and subsequent fall, including 9, 10, 11, 21, and 25. Mr. Jones wore temporary broken dentures
40 on the top and bottom of his mouth that he testified were not functioning correctly.
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47 ¹ RCW 51.36.010; WAC 296-20-01002.

1 The Department letter on appeal denied the request to authorize payment for dental work on
2 unrelated teeth. Mr. Jones argued that he should not have to remove additional unrelated teeth to
3 accommodate the Department's desire to provide a permanent partial denture and his accepted teeth
4 should be replaced with implants and crowns. Our industrial appeals judge concluded that Mr. Jones'
5 request for implants, and any supporting dental treatment, was not proper and necessary treatment
6 based on Mr. Jones' lack of dental self-care, a perceived safety risk, and lack of finances. We
7 disagree; all testifying doctors agreed that both plans were reflective of standards of good practice
8 and were rehabilitative.² Both plans also offered treatment for accepted teeth as well as conditions
9 not related to the industrial injury. To consider Mr. Jones' financial ability to pay for treatment, assume
10 that a future fall could occur, or that his past lack of dental self-care will continue as the basis for
11 rejecting care is speculative. We disagree with our industrial appeals judge's determination that
12 implants were not proper and necessary treatment because the issue presented by the letter under
13 appeal was primarily whether the Department would pay for the extraction of unrelated teeth in order
14 to permit fitting of a permanent partial denture.
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22 Three dentists testified. Tar Aw, D.D.S., performed an independent medical exam in 2015,
23 Theresa Mah, D.D.S., offered treatment to replace Mr. Jones' existing dentures, and Robert B.
24 O'Neal, D.D.S., performed a records review and evaluated the offered plans.
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27 Dr. Aw proposed bone grafts, followed by upper and lower partial dentures. He stated implants
28 to replace the lost teeth or removable partial dentures were equally quality treatments. Based on a
29 long-term prognosis, additional missing teeth, and advanced bone loss, Dr. Aw recommended
30 dentures. He also recommended a further dental exam to determine which teeth were strong enough
31 to accommodate a partial denture.
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34 Mr. Jones sought treatment from Dr. Mah, who reviewed records and recommended restoring
35 the accepted teeth with titanium post implants and crowns. If Mr. Jones proved to be a candidate,
36 his medical condition would be fixed and he could function without the same issues that come with
37 dentures. She was aware that Mr. Jones lost several teeth, had a few incomplete implant posts, and
38 had various stages of periodontal disease. Despite this, she proposed implants because of the effect
39 of his missing teeth and difficulty with chewing while using dentures. She agreed that Mr. Jones
40 needed another dental exam to confirm that her suggested treatment was still appropriate as
41 treatment plans expire after six months.
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² RCW 51.36.010(1).

1 Periodontist Robert O'Neal testified on behalf of the Department after reviewing Mr. Jones'
2 claim file. He concluded that because Mr. Jones had an upper and lower all-acrylic partial denture
3 fabricated previously, he was fixed and stable. He indicated it was in Mr. Jones' best interest to
4 electively extract teeth at his own cost and then have the final appliance made by the Department.
5 He also agreed with Drs. Mah and Aw that Mr. Jones required a follow-up assessment with a dentist.
6 He did not examine Mr. Jones but offered his treatment suggestions based on his conversations with
7 non-testifying doctors and his belief that Mr. Jones could not afford ongoing dental care or would not
8 provide the meticulous home care required.
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10 All doctors agreed that Mr. Jones required a reassessment to proceed with treatment of his
11 accepted teeth, and all doctors agreed both the implants and dentures met dental standards. The
12 only disagreement was whether the preferred treatment would be the fitting and providing of
13 permanent partial dentures or providing implants. It appears that the Department incorrectly withheld
14 providing dentures until Mr. Jones agreed to pay for treatment on unrelated teeth. He does not need
15 to make that election. If provision of the dentures is the best treatment alternative, Mr. Jones should
16 not have to pay for the extractions. We agree that Mr. Jones needs a further exam by his treating
17 dentist to determine the best course of treatment for his teeth. Based on the totality of the admissible
18 and persuasive evidence, we reverse the Department letter and remand the claim to allow this
19 follow-up exam and treatment for his teeth as recommended by claimant's treating physician.
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28 DECISION

29 In Docket No. 18 17363, the claimant, Robert B. Jones, filed an appeal with the Board of
30 Industrial Insurance Appeals on July 24, 2018. The claimant appeals a Department letter dated
31 July 20, 2018. In this letter, the Department denied Mr. Jones' July 18, 2018 request to authorize
32 payment for unrelated dental work. This order is incorrect and is reversed and remanded to the
33 Department to allow for treatment related to the accepted teeth as recommended by Mr. Jones'
34 treating physician.
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38 FINDINGS OF FACT

- 39 1. On October 3, 2018, an industrial appeals judge certified that the parties
40 agreed to include the Jurisdictional History in the Board record solely for
41 jurisdictional purposes.
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- 43 2. Robert B. Jones sustained an industrial injury on February 12, 2013, when
44 he fell down 14 concrete stairs, sustaining fractures in his right heel,
45 spine, and teeth.
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3. As of July 20, 2018, Mr. Jones' missing teeth numbered 9, 10, 11, 21, and 25, proximately caused by or related to the industrial injury, require further proper and necessary treatment.

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CONCLUSIONS OF LAW

1. The Board of Industrial Insurance Appeals has jurisdiction over the parties and subject matter in this appeal.
2. Mr. Jones is entitled to further proper and necessary treatment of permanent partial dentures and/or dental implants as authorized by RCW 51.36.010.
3. The Department letter dated July 20, 2018, is incorrect and is reversed and remanded to the Department to allow for treatment related to the accepted teeth as recommended by Mr. Jones' treating physician.

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Dated: December 2, 2019.

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BOARD OF INDUSTRIAL INSURANCE APPEALS


LINDA L. WILLIAMS, Chairperson


ISABEL A. M. COLE, Member

**Addendum to Decision and Order
In re Robert B. Jones
Docket No. 18 17363
Claim No. AT-68965**

Appearances

Claimant, Robert B. Jones, by Washington Law Center, PLLC, per Spencer D. Parr

Employer, Seatac Inn (did not appear)

Department of Labor and Industries, by Office of the Attorney General, per Lisa M. Roth

Petition for Review

As provided by RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review and decision. The claimant filed a timely Petition for Review of a Proposed Decision and Order issued on August 12, 2019, in which the industrial appeals judge affirmed the Department order dated July 20, 2018.

Evidentiary Rulings

The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no prejudicial error was committed. The rulings are affirmed, except for the following objections in the deposition of Robert B. O'Neal, D.M.D., which are sustained.

Deposition Exhibit No. 2 was remarked as Exhibit No. 5, and is rejected.

Objections sustained and testimony stricken at: page 30, line 10 – 12; page 32, lines 12-15; page 34, lines 19-22; page 40, lines 6-17; page 42, lines 8-20; page 44, lines 18-22; page 45, lines 4-16; page 48, line 6-11; page 50, lines 16-18; page 52, lines 2-7; page 55, lines 16-21; page 56, line 1-10; page 58, line 4-11; page 58, line 18-20; page 59, line 3-6; page 60, line 1-15; page 64, line 21-24; page 65, line 2-7; page 67, line 7-16; page 70, line 18-24; page 72, line 9-22; page 75, line 5-14; page 82, line 21-25; page 83, line 4-15; page 95, line 1-20; page 97, line 4 to page 99, line 10; page 100, line 3 to page 101, line 17; page 102, line 24 to page 106, line 11; page 108, line 10-14; page 111, line 9 to page 114, line 5, page 116, line 20 to page 121, line 18; page 122, line 22 to page 123, line 4; page 125, line 4 to page 126, line 17; page 127, line 20 beginning with "and again:" to page 128, line 2; page 129, line 5 beginning with "And again;" page 133, line 7 to page 134, line 15; page 136, line 6-24; page 141, line 23 to page 142, line 3; page 144, line 4-17; page 148, line 24 to page 149, line 19.