

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

FERREL CASTELAN URAJE, *Applicant*

vs.

**LJL ENGINEERING COMPANY, INCORPORATED; OAK RIVER INSURANCE
COMPANY, Administered By BERKSHIRE HATHAWAY HOMESTATE COMPANIES,
*Defendants***

**Adjudication Number: ADJ16344618
Anaheim District Office**

**OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION
AND DECISION AFTER RECONSIDERATION**

Lien claimant Medland Medical Group seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings and Order of September 12, 2023, wherein it was found that, while employed as a machine operator during a cumulative period ending May 27, 2022, applicant sustained industrial injury to the elbow and back, but not to the arm, wrist, or other body parts. As relevant to the instant Petition, it was found that lien claimant was not entitled to reimbursement for its lien. The basis behind the disallowance was the purported fact that applicant had been discharged from care by his primary treating physician, and that any further care from a new treating physician was only available after going through the qualified medical evaluator or agreed medical evaluator process. (Cal. Code Regs., tit. 8, § 9785; *Tenet/Centinel Hospital Medical Center v. Workers' Comp. Appeals Bd. (Rushing)* (2000) 80 Cal.App.4th 1041 [65 Cal.Comp.Cases 477.]

Lien claimant contends that the WCJ erred in disallowing its lien. We have received an Answer from defendant and the WCJ has filed a Report and Recommendation on Petition for Reconsideration.

We will grant reconsideration and defer the issue of Medland Medical's lien so the WCJ may reanalyze the issue of the applicability of *Rushing, supra*. In the further proceedings, the parties and the WCJ should analyze the applicability of the June 27, 2022 letter designating Dr. Omid Haghghinia as primary treating physician. This letter appears to have preceded the

discharge of care from Concentra. Additionally, if relevant, the parties and WCJ should analyze the issue of whether the discharge from care, which appears to be dictated and signed by a physician's assistant, was a valid discharge for the purposes of *Rushing* and Administrative Rule 9785. We believe that the WCJ should analyze this issue in the first instance, allowing for the parties to be heard on this issue. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805]; *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584].) We take no position on the ultimate resolution of these issues or the ultimate resolution of how the resolution of these issues affects other issues in this case.

For the foregoing reasons,

IT IS ORDERED that Lien Claimant Medland Medical Group's Petition for Reconsideration of the Findings and Order of September 12, 2023 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order of September 12, 2023 is **AMENDED** as follows:

FINDINGS OF FACT

1. FERREL CASTELAN URAJE, age 41 on the date of injury, while employed during the period 05-27-2021 through 05-27-2022 as a machine operator, at Santa Ana, California, by LJI ENGINEERING COMPANY INC, whose workers' compensation insurance carrier was Oak River Insurance Company, sustained injury arising out of and occurring in the course of employment to elbow and back.
2. Applicant did not sustain injury arising out of an occurring in the course of employment to the arm, wrist, and other body parts.

3. The issue of Medland Medical Group's lien claim is deferred, with jurisdiction reserved.

WORKERS' COMPENSATION APPEALS BOARD

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 4, 2023

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**FERREL CASTELAN URAJE
PARKER LAW
HALLETT, EMERICK, WELLS & SAREEN
MEDLAND MEDICAL GROUP**

DW/oo

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. o.o