

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

THOMAS STANLEY (DECEASED), *Applicant*

vs.

**ATASCADERO STATE HOSPITAL, legally uninsured,
adjusted by STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ15857154
San Luis Obispo District Office**

**OPINION AND ORDER
DENYING PETITION FOR RECONSIDERATION**

Defendants Atascadero State Hospital, legally uninsured, adjusted by State Compensation Insurance Fund, seek reconsideration of the August 15, 2023 Findings and Award, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that good cause exists for the payment of death benefits to decedent's two dependent children in the amount of \$290,000.00 (\$145,000.00 to each dependent children) less attorney's fees of 15%.

Defendant contests the WCJ's finding that good cause exists to pay death benefits to decedent's two dependent children and further contends, should good causes exists, that the amount of death benefits was erroneous.

We received an answer from Karen Stanley, decedent's wife. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. Based on the WCJ's Report and the Opinion on Decision, both which we adopt and incorporate, and for the reasons discussed below, we deny reconsideration.

Defendant argues:

Brook Stanley completed two courses at Cuesta College in 2020. (Joint Exhibit A, Statement of Stipulated Facts, at 3:6-3:8). She is not currently enrolled in school. (Joint Exhibit A, Statement of Stipulated Facts, at 3:7). Shane Stanley is not enrolled in any school; he has discussed the

possibility of pursuing higher education. (Joint Exhibit A, Statement of Stipulated Facts, at 3:9-3:11). The Stipulated Facts contain the financial situation for Karen Stanley that her home is paid off, her CalPERS benefit, and the various funds she has received since decedent's death. (Joint Exhibit A, Statement of Stipulated Facts, at 1:25-3:4.) (Petition, pp. 6:23-7:3.)

Defendant contends that there has not been a showing of financial hardship and that the mere fact of dependency is not sufficient to find good cause for death benefits. (Petition, p. 7:18, 7:22-23.) We agree with the WCJ that there has been a showing of good cause here. In *Cortez v. Cal. Dep't of Corr. & Rehab.* (October 4, 2019, ADJ9100288) 2019 Cal. Wrk. Comp. P.D. LEXIS 575, a different Appeals Board panel, concluded that documentary evidence to prove the cost of education is not necessary in determining good cause.¹ The WCAB is vested with expansive discretionary authority to award death benefits to dependents based on need and in just and equitable manner. (Lab. Code, § 4704; *Dep't of Corr. v. Workers' Comp. Appeals Bd. (Antrim)* (1979) 23 Cal.3d 197, 204 (44 Cal.Comp.Cases 114.)) Defendant concedes that there is a possibility that Brook Stanley will pursue higher education in the future and that Shane Stanley has discussed the possibility of pursuing higher education. (Petition, pp. 3:22-4:3.) As such, we agree that good cause exists for the award of death benefits to decedent's two dependent children.

¹ Panel decisions are not binding precedent (as are en banc decisions) on all other Appeals Board panels and workers' compensation judges. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].) A California Compensation Cases digest of a "writ denied" case is also not binding precedent. (*MacDonald v. Western Asbestos Co.* (1982) 47 Cal.Comp.Cases 365, 366 (Appeals Board en banc).) While not binding, the WCAB may consider panel decisions to the extent that it finds their reasoning persuasive. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 242, fn. 7 (Appeals Board en banc).)

For the foregoing reasons,

IT IS ORDERED that defendants Atascadero State Hospital, legally uninsured, adjusted by State Compensation Insurance Fund's Petition for Reconsideration of the August 15, 2023 Findings and Award is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

NATALIE PALUGYAL, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 6, 2023

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

**KAREN STANLEY
SPATAFORE & GRANT
STATE COMPENSATION INSURANCE FUND**

LSM/oo

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

**REPORT AND RECOMMENDATION OF WORKERS' COMPENSATION JUDGE
ON PETITION FOR RECONSIDERATION**

**I
INTRODUCTION**

- | | |
|--|---|
| 1. Decedent's Occupation: | Police Sergeant |
| 2. Applicant's Age: | [...] |
| Date of Injury: | December 31, 2021 (date of death) |
| Parts of body injured: | Heart and Lungs |
| Mechanics of Injury: | Covid-19 infection |
| 3. Identity of Petitioner: | Defendant |
| Timeliness: | Petition was timely filed |
| Verification: | Petition was appropriately verified |
| 4. 4. Date of issuance of Order/Award: | August 15, 2023 |
| 5. Issues presented: | 1) The issue presented is whether good cause was shown under Labor Code §4704 to allow payment of a death benefit to decedent's two dependent children and, if so, how should such benefit be calculated and distributed. |

**II
FACTS, CONTENTIONS AND ISSUES**

Defendant State Compensation Insurance Fund has caused to be filed a Petition for Reconsideration seeking reconsideration of the WCJ's finding that good cause existed under Labor Code Section 4704 to pay decedent's two stipulated dependent children a death benefit despite the actions of their dependent mother in accepting and receiving the special death benefit offered her in lieu of death benefits. Defendant also appealed the amount of the death benefit awarded to the children, even if it is assumed, by arguendo, that good cause existed to pay such benefits.

First, with respect to the issue as to whether good cause existed under Labor Code Section 4704 to pay the death benefit described in Labor Code section 4702, it must be recognized that the cases are legion that support the proposition that the judge's determination of good cause takes into account, "any factor" relevant to the decedent's dependent. It is worth noting that the defendant stipulated to the fact that the two children were financially dependent upon decedent's family's income prior to his death. In the case at bar, a plethora of factors legislated toward payment of the

death benefit. Both children demonstrated a desire for higher education and/or training to develop vocational skills and self-improvement. Both children were attending college at the time of litigation. Neither child had funds independent of their mother and/or their father. Both children, though working, could not support themselves independently as demonstrated in the stipulated facts. Both children, based upon Mr. Stanley's untimely death, were certain to never again have the financial assistance of their father in the future. Financial hardship was therefore demonstrated. Further, the mother, though assisting them financially at the present time, had experienced a substantial reduction in financial income from \$132,000.00 per year to \$40,000.00 per year. No guarantee existed that such financial assistance from the mother would be provided in an ongoing fashion, and supposition on this point would be speculative. All of these factors have been cited in other cases as indicative of good cause to provide death benefits.

It must be further noted that Antrim, and its progeny, demand that the death statutes be construed liberally to authorize the awarding of death benefits when dependent children are involved.

Accordingly, the threshold question of whether good cause exists under Labor Code Section 4704 to pay benefits is resoundingly affirmative based upon the factors cited. The WCJ's finding of good cause was neither erroneous nor arbitrary and capricious and should therefore be affirmed.

The more difficult question confronted by the WCJ was the question as to whether Labor Code Section 4702 benefits should be \$290,000.00 or, alternatively, \$320,000.00. The judge elected to utilize \$290,000.00 because there were only two beneficiaries to be paid. With all due candor, however, the financial pool could very easily have been \$320,000.00 as there were three full dependents at the time of death. The judge elected, as set forth below, to "carve out" the wife who had already received the special death benefit.

The defendant stipulated that three full dependents existed at the time of death. Statutorily, the sum for three full dependents would be \$320,000.00. Defendant asserts that some sort of credit should be taken against such award for the mother's special death benefit citing cases that are no longer germane in light of the Antrim case and subsequent cases. Therefore, the real question here is whether the Court should utilize the Labor Code Section 4702 figure for three dependents or two dependents. In actuality, since only two dependents remain (as the mother has been paid), it was the determination of the WCJ that fairness dictated that although a credit for the mother's

funds received would be improper under Ante rim, she should be "carved-out" of the dependency pool leaving two dependents splitting \$290,000.00.

Defendant's argument that this somehow creates a crisis in equal protection is simply untenable. Each case is unique unto itself when family finances and the death of a parent are involved and must be evaluated in such fashion as it is permitted under Labor Code Section 4704, The argument that the dependent children are receiving more individually than other beneficiaries might receive is specious and speculative. As each case involving a death of a parent is unique and must be evaluated from the facts in each case, to say that a child who has lost a providing parent has been unfairly enriched because other children of unknown circumstances might be subjected to different statutory construction and interpretation is not tenable.

The judge's determination that the two dependent children should split \$290,000.00 is appropriate and should be affirmed.

IV

RECOMMENDATION

It is respectfully recommended that the defendant's Petition for Reconsideration be denied.

September 8, 2023

JAMES M. ZERBONI
Worker's Compensation Judge

OPINION ON DECISION

The threshold question to be determined in this case by this Court was whether good cause exists under Labor Code Section 4704 to pay death benefits to the decedent's dependent children under Labor Code Section 4702 in addition to the CalPers special death benefit which the decedent's dependent wife elected to receive. Labor Code Section 4704 and the cases interpreting that statute, provide broad authority and expansive judicial latitude to the workers' compensation judge in the awarding of such benefits. As always, such judgment is governed by the bounds of reasonableness as well as the dictates of arbitrary and capricious determinations. The workers' compensation judge is directed in his decision making to take into account any factor which may be relevant in determining good cause to award such benefits and to calculate the amount of such benefits to be awarded. See *Department of Corrections v. WCAB (Antrim)* 23 C, 3rd, 297 (1979) and *Cortez* 85 CCC 215 (2020).

In the case at bar, defendant asserts that benefits, if any, are unnecessary due to the personal wealth of the mother. The defendant also asserts that some sort of credit should be given to the defendants against any amounts awarded to the children on the basis of the money received by the mother under the special death benefit. Such reasoning is simply untenable and not in accord with the stated law and the case law interpretations of the statutory law. The facts demonstrate that both children remain in the mother's home without personal access to funds unless the mother so elects to share her wealth and funds with them. The money identified under Labor Code Section 4702 and the death benefit contained therein, is the last opportunity that the decedent, Mr. Stanley, will ever have to ensure that his children's well-being, higher education, and future support is protected by him. He gave his life as a result of a work-related injury and will not be around to see that things in the future operate to protect his children. Accordingly, good cause certainly exists for the payment of such benefits.

Further, it must be recognized, that to surmise that Mrs. Stanley, the decedent's wife, will always be financially supportive of these children and able to provide for them is purely speculative. Mrs. Stanley is only 50 years-old and a young woman. It is unknown whether she will remarry and/or become involved such that her personal assets may be reduced and/or altered by such relationship. Such change in circumstances, which is entirely probable, may reduce the children's potential support. In the words of Shaquille O'Neal, when his children asked him for money, at which time he said, "No," the children responded by saying, ""But dad, we are rich."

To which O'Neal responded, "No, that's not true, I am rich, not you." To count on decedent's wife Karen Stanley, whose yearly income has now dropped from \$132,000.00 per year to \$40,000.00 per year to provide ongoing future support at all times, would be a foolish assumption. The children, as dependents, should be provided with the death benefits to ensure their college education, if desired, and future opportunities financially.

The death benefit should be awarded with the objective of providing benefits to a deceased employee's dependents. Such is the directive and the nature of the law.

With respect to defendant's argument that some form of credit should be allowed to them for the special death benefit to the wife, resulting in a reduction in the amounts to be awarded to the decedent's children, such position is specifically rejected in both *Antrim* and in *Cortez*. The Courts specifically stated that there is no credit permissible against the death benefit paid to the children for the monies paid in the special death benefit to the decedent's wife.

August 14, 2023

JAMES M. ZERBONI
Worker's Compensation Judge