WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

LINDA BECERRA, ***Applicant***

vs.

CONIFER HEALTH SOLUTION, PERMISSIBLY SELF-INSURED, ADMINISTERED BY SEDGWICK CLAIMS MANAGEMENT SERVICES, ***Defendants***

Adjudication Number: ADJ8185944
Marina Del Rey District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant and defendant Conifer Health Solution (defendant) both seek reconsideration of the Findings and Award, issued July 19, 2023, wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a financial assistant from April 20, 2002 through November 22, 2011, sustained industrial injury to her bilateral knees. The WCJ determined that defendant met its burden of establishing nonindustrial apportionment, and issued an award of 64 percent permanent disability based on a weekly rate of $290.00.

Applicant contends that the apportionment described in the medical-legal reporting does not constitute substantial evidence, and that applicant is entitled to an unapportioned award.

Defendant contends that the WCJ awarded permanent disability at an incorrect weekly rate and that the permanent disability arising out of applicant's psychiatric injury is subject to apportionment, or in the alternative that the record should be developed regarding applicable factors of psychiatric apportionment.

We have received an Answer from defendant to applicant's Petition for Reconsideration (Applicant's Petition). The WCJ has prepared a Report and Recommendation as to both Petitions for Reconsideration, recommending that Applicant's Petition be denied, and Defendant's Petition

granted and the matter returned to the trial level for development of the record with respect to the psychiatric reporting.

We have considered the allegations of the Petition for Reconsideration and the contents of the reports of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant Defendant's Petition and amend the weekly permanent disability rates. We will also grant Applicant's Petition, rescind the July 19, 2023 F&A, and substitute new Findings and Award determining that applicant met the burden of establishing injury to the psyche, fibromyalgia, right elbow, heart (arrhythmia and hypertension), cervical spine, left wrist, left hand, left arm, bilateral shoulders, and bilateral wrists; that applicant did not sustain injury in the form of headaches; and that applicant is entitled to an award of 92 percent permanent disability without apportionment. Finally, we will return the matter to the trial level for determination of the corresponding permanent disability indemnity, life pension, and attorney's fees.

BACKGROUND

Applicant sustained injury to her psyche, fibromyalgia, right elbow, heart (arrhythmia and hypertension), cervical spine, left wrist, left hand, left arm, bilateral shoulders, and bilateral wrists, while employed as a financial assistant by defendant from April 20, 2002 through November 22, 2011.

The parties have selected Carlo Z. Biscaro, M.D., as the Qualified Medical Evaluator (QME) in orthopedic medicine, Harvey L. Alpern, M.D., as the QME in internal medicine, Renee Rinaldi, M.D., as the QME in rheumatology, and E. Richard Dorsey, M.D., as the QME in psychiatry.

On February 8, 2023, the parties proceeded to trial, framing issues including permanent disability and apportionment. The parties submitted the matter for decision without testimony. (Minutes of Hearing, February 8, 2023, p. 3:2.)

On May 4, 2023, the WCJ issued rating instructions to the Disability Evaluation Unit (DEU), and the resulting Formal Ratings determined that applicant had sustained 64 percent permanent disability after apportionment. (Report of Permanent Disability, May 4, 2023, p. 1.)

On July 19, 2023, the WCJ issued the F&A, determining in relevant part that applicant had sustained injury to the bilateral knees, that her earnings warranted a weekly permanent disability

rate of $290.00, that applicant had sustained 64 percent permanent disability, and awarding indemnity of $127,813.88, and attorney fees of $19,172.08.

Applicant's Petition avers none of the apportionment analyses described by the various QMEs constitutes substantial evidence, and that applicant is entitled to an unapportioned award.

Defendant's Answer avers the apportionment analyses offered by the QMEs are based on applicant's medical and vocational history, and that the resulting apportionment conclusions reached by the QMEs are compliant with Labor Code[1] section 4663(c).

Defendant's Petition asserts there was computational error in the award of permanent disability indemnity, and further avers that the reporting of psychiatric QME Dr. Dorsey does not adequately address apportionment. Defendant contends the apportionment described by the QMEs in other specialties should be applied to the various body parts/systems as identified in the reporting of Dr. Dorsey, or that the record should be developed as to the issue of apportionment. (Defendant's Petition, at 4:12.)

The WCJ's Reports acknowledge clerical error in the Findings of Fact with respect to the body parts injured, as well as the weekly permanent disability indemnity rate. (Report and Recommendation on Applicant's Petition for Reconsideration, August 7, 2023, p. 10; First Amended Report and Recommendation on Defendant's Petition for Reconsideration, August 15, 2023, p. 7.) The WCJ's Report of August 15, 2023 recommends that the matter be returned to the trial level for development of the record with respect to permanent disability and apportionment.

DISCUSSION

Applicant contends the apportionment analyses described by the QMEs are not substantial evidence, and that she is entitled to an unapportioned award. We agree.

Section 4663 provides, in relevant part, as follows:

> (a) Apportionment of permanent disability shall be based on causation.
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> (b) Any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury shall in that report address the issue of causation of the permanent disability.
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> (c) In order for a physician's report to be considered complete on the issue of permanent disability, it must include an apportionment determination. A

[1] All further statutory references are to the Labor Code unless otherwise stated.

> physician shall make an apportionment determination by finding what approximate percentage of the permanent disability was caused by the direct result of injury arising out of and occurring in the course of employment and what approximate percentage of the permanent disability was caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. If the physician is unable to include an apportionment determination in his or her report, the physician shall state the specific reasons why the physician could not make a determination of the effect of that prior condition on the permanent disability arising from the injury. The physician shall then consult with other physicians or refer the employee to another physician from whom the employee is authorized to seek treatment or evaluation in accordance with this division in order to make the final determination.
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> (Lab. Code, § 4663.)

In order to comply with section 4663, a physician's report in which permanent disability is addressed must also address apportionment of that permanent disability. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604 [2005 Cal. Wrk. Comp. LEXIS 71] (Appeals Bd. en banc) (*Escobedo*).) However, the mere fact that a physician's report addresses the issue of causation of permanent disability and makes an apportionment determination by finding the approximate respective percentages of industrial and non-industrial causation does not necessarily render the report substantial evidence upon which we may rely. Rather, the report must disclose familiarity with the concepts of apportionment, describe in detail the exact nature of the apportionable disability, and *set forth the basis for the opinion that factors other than the industrial injury at issue caused permanent disability.* (*Id.* at p. 621.) Our decision in *Escobedo* summed up the minimum requirements for an apportionment analysis as follows:

> [T]o be substantial evidence on the issue of the approximate percentages of permanent disability due to the direct results of the injury and the approximate percentage of permanent disability due to other factors, a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions.
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> For example, if a physician opines that approximately 50% of an employee's back disability is directly caused by the industrial injury, the physician must explain how and why the disability is causally related to the industrial injury (e.g., the industrial injury resulted in surgery which caused vulnerability that necessitates certain restrictions) and how and why the injury is responsible for approximately 50% of the disability. And, if a physician opines that 50% of an employee's back disability is caused by degenerative disc disease, the physician

> must explain the nature of the degenerative disc disease, *how* and *why* it is causing permanent disability at the time of the evaluation, and *how* and *why* it is responsible for approximately 50% of the disability.
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> (*Ibid.*, italics added.)

Here, the F&A awards permanent disability based on the WCJ's rating instructions, which contemplate apportionment of 80 percent of the disability for the cervical spine, right arm, left arm, hypertension and arrhythmia, to prior industrial or nonindustrial causes. (Opinion on Decision, p. 4; Formal Rating Instructions, May 4, 2023, p. 1.) The rating instructions further apply 50 percent apportionment to disability arising out of the fibromyalgia diagnosis in the bilateral upper and lower extremities. (*Ibid.*)

The Formal Rating is, in turn, based on the reporting of the four QMEs in this matter.

Reporting in orthopedic medicine, QME Dr. Biscaro identifies industrial causation of applicant's injuries, and notes that "apportionment appears to be indicated." (Ex. HH, Report of Carlo Z. Biscaro, January 8, 2015, at p. 18.) However, the *entirety* of the QME's subsequent apportionment analysis is contained in one sentence: "Based on the history of this patient, I would apportion 80% of her current signs and symptoms to her original injuries and 20% to the continuous trauma." (*Id.* at p. 20.) The analysis fails to describe with specificity what "original injuries" are referred to, and how and why those injuries are responsible for 80 percent of applicant's present levels of disability.

Defendant contends that the apportionment analysis is substantial because the QME reviewed "all relevant medical reports, the majority of which were generated prior to Applicant's employment with [defendant]." (Answer, at 4:19.) However, the QME's conclusory statement of apportionment falls well short of the analysis required under section 4663(c) and *Escobedo*, and the fact that the QME undertook a thorough review of applicant's medical history, standing alone, does not satisfy the requirement that the QME provide an appropriate medical *analysis* of that history, and its effect on applicant's present disability. (*Escobedo, supra*, at p. 621.) Accordingly, the apportionment analysis of the QME is not substantial evidence.

Reporting in internal medicine, QME Dr. Rinaldi also reviews applicant's medical history, including prior surgeries and medical procedures, and a prior workers' compensation award and ultimately concludes that, "it is medically probably that the pain from these conditions and the resulting surgeries caused the development of Fibromyalgia." (Ex. NN, Report of Renee Rinaldi,

M.D., February 15, 2018, at p. 58.) Dr. Rinaldi discusses the resulting factors of permanent disability, and concludes that, "with respect to Fibromyalgia, it likely developed as a response to her original orthopedic injuries, and was exacerbated by repetitive use at work and her subsequent non work related medical conditions and non work related surgeries as listed above." (*Id.* at p. 63.) Dr. Rinaldi surveys applicant's medical and vocational history, and concludes that:

> Because [applicant] was awarded substantial permanent disability prior to working at Tenet, and had clear documentation of chronic pain that was not improved by multiple surgeries, it is reasonable to apportion a portion of her impairment from fibromyalgia to those work related injuries that occurred in 1993 - 1998. I would apportion 35% of her impairment from fibromyalgia to the conditions that occurred up to and including May 30, 2000 when she received a permanent disability rating of 49%. I would apportion 50% of her impairment to her continuous trauma injury that occurred when she worked for Conifer/Tenet. I would apportion 15% of her impairment from fibromyalgia to the nonwork related conditions that she suffered from including atrial myxoma open heart surgery, thyroidectomy, [and] fundoplication.
> (*Id.* at p. 64.)

The analysis does not identify with particularity the factors or conditions that are causing applicant's disability. Rather, the QME has aggregated what she describes as applicant's "complicated case of multiple work related injuries and non work related medical conditions that necessitated multiple surgeries that occurred over many years," into a *single factor of apportionment*, and assessed a percentage of causation to that single factor without substantive discussion of how and why it is resulting in present permanent disability. (*Id.* at p. 63.) There is no discussion of how each of the various work related injuries or "non work related medical conditions" resulted in applicant's present levels of disability, or how and why the specific percentages assessed were determined. Again, it appears that the QME has engaged in an extended review of applicant's medical and vocational history, but has not offered an analysis that identifies or parses individual factors and conditions, and how and why each factors or conditions is causing applicant's present levels of permanent disability. Accordingly, the apportionment analysis of the QME is not substantial evidence.

Reporting in internal medicine, QME Dr. Alpern has identified industrial aggravation of applicant's hypertension and atrial fibrillation, and has assigned impairment arising therefrom. (Ex. GG, Report of Harvey L. Alpern, M.D., dated November 13, 2017, p. 111.) The apportionment analysis offered is as follows:

> Of the hypertension impairment, I would say of the 20% would be due to the aggravation of the stresses and strains of her work and the stresses and strains of the orthopedic injuries she has had. The remaining 80% would be due to the nonindustrial factors including the stress and strain of the myxoma and the obesity that was present and non-industrial. Insofar as the arrhythmia is concerned, that occurred both from her preexisting myxoma heart problem which is non-industrial and I would say that 80% would be non-industrial and 20% to the stresses and strains and emotional factors of her work and the stresses and strains of her orthopedic problems that are related to work.
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> (*Id.* at p. 112.)

Dr. Alpern reiterates his apportionment analysis in his March 31, 2021 report, adding that it is “medically most probable” that 80 percent of applicant’s myxoma would be non-industrial. (Ex. CC, Report of Harvey L. Alpern, M.D., March 31, 2021, p. 3.)

However, the QME’s analysis is nonspecific as to the factors to which he is assigning apportionment, and further aggregates multiple factors, such as work stresses and orthopedic injuries, without a specific and individualized assessment of how and why each factor is at present contributing to applicant’s residual permanent disability. The analysis does not discuss how and why applicant’s preexisting nonindustrial factors or conditions are causing 80 percent of her present permanent disability, or how the doctor arrived the stated apportionment percentages. An opinion that merely identifies sources of non-industrial factors of impairment does not constitute substantial evidence if it is a bare legal conclusion. (*Granado v. Workmen's Comp. Appeals Bd.* (1970) 69 Cal.2d 399, 407 [33 Cal.Comp.Cases 647] (a “mere legal conclusion” does not furnish a basis for an apportionment finding); *Zemke v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 794, 799, 800-801 [33 Cal. Comp. Cases 358] (a physician's opinion that the apportionment was “fair” fails to disclose its underlying basis and is but a “bare legal conclusion” that does not constitute substantial evidence.) Accordingly, the apportionment analysis of the QME is not substantial evidence.

Reporting in psychiatry, Dr. Dorsey has identified injury with impairment, industrial causation, and factors of apportionment. (Ex. KK, Report of E. Richard Dorsey, M.D., February 5, 2020, at p. 10.) The QME notes that his apportionment opinion is based on a “best estimate,” with 30 percent apportioned to atrial fibrillation, 25 percent to fibromyalgia, 20 percent for neck pain, 10 percent to pain in both shoulders, 10 percent to pain in the back, and 5 percent to memories of mistreatment at work. (*Ibid.*)

However, the QME's opinions are not stated to a reasonable medical probability, and are neither explained nor substantiated in the record. The QME does not explain how and why identified factors of apportionment are contributing to applicant's present permanent disability, and does not explain how the percentages were arrived at. Accordingly, the apportionment analysis of the QME is not substantial evidence.

Based on the foregoing, we are persuaded that none of the QMEs reporting in this matter offers a substantial apportionment analysis. As is observed in *Escobedo, supra*, "[e]ven where a medical report 'addresses' the issue of causation of the permanent disability and makes an 'apportionment determination' by finding the approximate relative percentages of industrial and non-industrial causation under section 4663(a), the report may not be relied upon unless it also constitutes substantial evidence." (*Escobedo, supra*, at 620.) None of the apportionment analyses herein adequately explains the mechanism for how the identified factors of apportionment are contributing to applicant's present permanent disability, or sets forth its reasoning with particularity. (*Nunes v. State of California, Dept. of Motor Vehicles* (2023) 88 Cal.Comp.Cases __ [2023 Cal. Wrk. Comp. LEXIS 46, *5] (*Nunes*) ("In order to constitute substantial evidence the opinions of both the evaluating physician as well as the vocational expert must detail the history and evidence in support of their respective conclusions, including "how and why" a condition or factor is causing permanent disability.").)

Accordingly, we conclude that because there is no evidence that supports valid legal apportionment, applicant is entitled to an unapportioned award. (*Escobedo, supra*, at p. 611; *Nunes, supra*, at *7 ["if an evaluating physician identifies apportionment, but the WCJ determines that the apportionment analysis does not constitute substantial evidence and that development of the record is not otherwise warranted, applicant is entitled to an unapportioned award."]; see also *Boone v. State of California—Dept. of Transp.* (July 23, 2018, ADJ7974582) [2018 Cal. Wrk. Comp. P.D. LEXIS 348]; *Maverick v. Marriott Int'l* (January 30, 2015, ADJ2034254) [2015 Cal. Wrk. Comp. P.D. LEXIS 50].)

The May 4, 2023 Formal Ratings addressed permanent disability applicable to the various body parts after apportionment. Utilizing those same ratings but without apportionment, applicant has sustained 92 percent permanent disability.[2]

In addition, the last payment of temporary total disability was made on November 22, 2013. (Minutes of Hearing, February 8, 2023, at p. 2:12.) Pursuant to *Brower v. David Jones Construction* (2014) 79 Cal.Comp.Cases 550 [2014 Cal. Wrk. Comp. LEXIS 69] (Appeals Bd. en banc) (*Brower*), "[w]hen the injured worker becomes permanent and stationary and is determined to be permanently totally disabled, the defendant shall pay permanent total disability indemnity retroactive to the date its statutory obligation to pay temporary disability indemnity terminated." (*Id.* at p. 560.) Here, applicant's entitlement to permanent disability commenced on the day following the last payment of temporary total disability, or November 23, 2013.

Accordingly, we will substitute Findings of Fact that applicant has sustained 92 percent permanent disability, subject to the statutory increase of section 4658(d), and that pursuant to our en banc decision in *Brower, supra*, applicant is entitled to the commencement of permanent disability payments on November 23, 2013.

We will further enter a finding of fact that applicant's counsel is entitled to 15 percent of the disability benefits awarded herein, with fees to be commuted from accrued benefits to the extent possible. We will then return the matter to the trial level for determination of issues of the corresponding indemnity and attorney's fees.

Turning to Defendant's Petition, defendant avers clerical error in the weekly permanent disability rates identified in Finding of Fact No. 3. (Defendant's Petition, at 3:7.) The WCJ's August 15, 2023 Report acknowledges error, and recommends that defendant's Petition be granted and the issues addressed in further proceedings. (Report and Recommendation, August 15, 2023, p. 7.) With respect to the issue of the proper permanent disability rate, we concur, and will amend the decision to reflect the appropriate permanent disability rate of $270. (See generally, Lab. Code, §4453(b).)

Defendant further avers that the WCJ's rating instructions failed to include the apportionment analysis offered by psychiatric QME Dr. Dorsey. However, as is discussed above,

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[2] The right upper extremity ratings are combined (18 C 5) to yield 22%; and the left upper extremity ratings are combined (12 C 5) to yield 16%. Utilizing the combined values table (47 C 47 C 42 C 25 C 22 C 16 C 4 C 4 = 92), the unapportioned reporting of the QMEs herein rates at 92%.

the apportionment analysis described by Dr. Dorsey is conclusory, is not expressed to a reasonable medical probability, and is unsupported in the record, and therefore does not constitute substantial evidence. Moreover, as we observed in *Escobedo, supra*, it is the defendant that carries "the burden of establishing the approximate percentage of permanent disability caused by factors other than the industrial injury … consistent with Labor Code section 5705 and Evidence Code section 500." (*Escobedo, supra*, at 613.) We observed that:

> These burdens apply whether there is one reporting physician (e.g., an agreed medical evaluator or a panel QME) or more than one reporting physician. Where a dispute arises on the issue of apportionment to industrial or non-industrial causation, a party's options include but are not limited to: (1) doing nothing, based on a belief that the assessment of the relative industrial and non-industrial causation percentages by the physician(s) upon whom it intends to rely is the most persuasive substantial medical evidence; (2) obtaining a supplemental report to clarify or bolster the percentage causation determination of the physician upon who it intends to rely or, if there is more than one physician, to rebut the opposing physician's percentage causation determinations; or (3) cross-examining the physician(s) by deposition for the same reasons.
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> (*Escobedo, supra,* at p. 613.)

Here, the parties jointly submitted the issue of apportionment for decision on the existing record. As we describe above, the apportionment analysis offered by Dr. Dorsey is not substantial evidence, and accordingly, defendant has not carried its burden of proof with respect to apportionment.

Defendant further contends that in the alternative, "the WCJ should have Ordered the parties to request a supplement report from Dr. Dorsey to determine whether Dr. Dorsey would defer industrial and non-industrial apportionment to the respective Qualified Medical Evaluators in the fields of Internal, Orthopedic, and Rheumatology." (Defendant's Petition, at 6:2.) While we agree that development of the record is required when the existing record is not adequate to support a final determination, we also note that a party who carries the burden of proof must submit evidence that is adequate to meet that burden. When the evidence is insufficient to meet that party's affirmative burden, the Appeals Board will not direct the augmentation of the record where there is otherwise sufficient evidence in the record to support a final determination. (*San Bernardino Community Hospital v. Workers' Compensation Appeals Board* (*McKernan*) (1999) 74 Cal.App.4th 928 [64 Cal.Comp.Cases 986]; *McClune v. Workers' Compensation Appeals Board*

(1998) 62 Cal.App.4th 1117 [63 Cal.Comp.Cases 261]; *Tyler v. Workers' Compensation Appeals Board* (1997) 56 Cal.App.4th 389 [62 Cal.Comp.Cases 924]; see also *Davis v. Pacific Bell* (2020) 85 Cal.Comp.Cases 612 [2020 Cal. Wrk. Comp. LEXIS 44] (writ denied).)

Finally, we observe that the parties placed in issue the question of whether applicant sustained injury in the form of headaches. (Minutes of Hearing, February 8, 2023, at p. 2:23.) The F&A does not address the issue with specificity, although the accompanying Opinion on Decision observes that the evidentiary record did not support a finding of injury in the form of headaches. Following our review of the record, we concur with this assessment, as none of the reporting QMEs in this matter have identified a medical diagnosis related to headaches, or attributed industrial causation thereto. Accordingly, we will enter a finding of fact that applicant has not met the burden of proving industrial injury in the form of headaches.

In summary, we agree with applicant that none of the apportionment analyses described in the QME reporting herein constitutes substantial evidence. We conclude that applicant is therefore entitled to an unapportioned award. We further observe that because defendant has failed to meet its evidentiary burden to establish nonindustrial apportionment, development of the record is not warranted. However, we do agree with defendant's observation that the F&A applies an incorrect weekly permanent disability rate for a 2011 injury.

Accordingly, we will grant both Applicant's Petition and Defendant's Petition. We will rescind the WCJ's July 19, 2023 decision, and substitute new Findings of Fact to reflect that applicant sustained injury to the psyche, fibromyalgia, right elbow, heart (arrhythmia and hypertension), cervical spine, left wrist, left hand, left arm, bilateral shoulders, and bilateral wrists, but not in the form of headaches; that applicant's weekly permanent disability rate is $270; that defendant has not met its burden of establishing apportionment; and that applicant is entitled to an award of 92 percent permanent disability commencing on November 23, 2013. We will defer the issues of permanent disability indemnity, life pension, and attorney's fees, and will return this matter to the trial level for determination of these issues. The WCJ may refer this matter to the Disability Evaluation Unit for a calculation of applicant's life pension and for a commutation of attorney's fees, as is deemed necessary and appropriate.

For the foregoing reasons,

IT IS ORDERED that both applicant's and defendant's petitions for reconsideration of the decision of the Findings and Award issued on July 19, 2023, are **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of July 19, 2023, is **RESCINDED,** and the following **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. Applicant Linda Becerra, while employed during the period of April 20, 2002 through November 22, 2011, as a financial assistant, at Anaheim, California, by Conifer Health Solutions, sustained injury arising out of and in the course of employment to the psyche, fibromyalgia, right elbow, heart (arrhythmia and hypertension), cervical spine, left wrist, left hand, left arm, bilateral shoulders, and bilateral wrists.
2. Applicant has not sustained the burden of proof necessary to establish injury in the form of headaches.
3. At the time of the injury, the employer was permissibly self-insured, administered by Sedgwick Claims Management Services.
4. At the time of the injury, the employer's earnings were $866.20 per week, warranting indemnity rates of $577.47 for temporary disability, and $270.00 for permanent disability.
5. The employer has furnished some medical treatment.
6. The primary treating physician is Dr. Marker.
7. Remedies for Labor Code section 5813, 5814, and 5814.5 are deferred, off calendar, with jurisdiction reserved.
8. Defendant has not sustained the burden of proof necessary to establish apportionment to nonindustrial or prior industrial factors or conditions.
9. Applicant is entitled to an award of 92 percent permanent disability, equivalent to 785.25 weeks of permanent disability at the weekly rate of $270.00 (before section 4658(d) adjustment), commencing November 23, 2013, and thereafter to a life pension in an amount to be determined, less credit to defendants for all sums heretofore paid on account thereof, if any, and less a reasonable attorney's fee.
10. SAWW adjustments pursuant to Labor Code section 4659(c) shall commence January 1, 2014.
11. The employer did not, within 60 days of the disability becoming permanent and stationary, offer the applicant regular work, modified work or alternative work, in the manner

prescribed by the Administrative Director, for a period of at least 12 months. The applicant is entitled to an increase pursuant to Labor Code Section 4658(d).

12. Applicant is entitled to further medical treatment to cure or relieve from the effects of the injury herein.
13. Applicant is entitled to a supplemental job displacement voucher.
14. Applicant's attorney is entitled to a fee of 15% of the disability benefits awarded herein, with the amount of fees and the method of commutation deferred to further proceedings.

AWARD

AWARD IS MADE in favor of LINDA BECERRA and against CONIFER HEALTH SOLUTIONS, Permissibly Self-Insured, Administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, as follows:

a. Permanent disability pursuant to paragraph 9.
b. Future medical care pursuant to paragraph 12.
c. A supplemental job displacement voucher pursuant to paragraph 13.
d. Attorney's fees pursuant to paragraph 14.

IT IS FURTHER ORDERED that the matter is **RETURNED** to the trial level for the determination of permanent disability indemnity, to include the section 4658(d) adjustment, the life pension, and attorney's fees.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 18, 2023

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

LINDA BECERRA
BERKOWITZ & COHEN
THOMAS KINSEY

SAR/abs

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