

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

**EDWARD GARCIA, *Applicant***

**vs.**

**STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, legally uninsured;  
STATE COMPENSATION INSURANCE FUND, adjusting agency, *Defendants***

**Adjudication Number: ADJ1179599 (MON 0242978)  
Marina del Rey District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We granted reconsideration in this matter to further study the factual and legal issues presented. This is our Opinion and Decision After Reconsideration.

Defendant, State of California, Department of Transportation, petitioned for reconsideration of the Joint Findings of Fact and Order issued by the workers' compensation administrative law judge (WCJ) in this matter on May 29, 2020. In that decision, the WCJ ordered the State Compensation Insurance Fund, the claims administrator for defendant, and Home Management Care (HMC), which provides continuing home care for applicant, to confer to work out an agreement as to the documentation required to justify the latter's billings.

Defendant contends in its petition for reconsideration that the WCJ erred in not applying against HMC the provisions of (b)(1)(A) of Labor Code section 4603.2 regarding the billing documentation required of a medical provider.

Applicant filed an answer contending that the petition for reconsideration should be denied.

**I.**

Preliminarily, we note that Labor Code section 5909 provides that a petition for reconsideration is deemed denied unless the Appeals Board acts on the petition within 60 days of filing. (Lab. Code, § 5909.) Section 5315 provides the Appeals Board with 60 days within which to confirm, adopt, modify or set aside the findings, order, decision or award of a workers' compensation administrative law judge. (Lab. Code, § 5315.) On June 5, 2020, the State of

California's Governor, Gavin Newsom, issued Executive Order N-68-20, wherein he ordered that the deadlines in sections 5909 and 5315 shall be extended for a period of 60 days.<sup>1</sup> Pursuant to Executive Order N-68-20, the time within which the Appeals Board must act was extended by 60 days. Here, defendant filed its petition on June 23, 2020, and 70 days later, we issued an Opinion and Order Granting Petition for Reconsideration. Thus, our order granting reconsideration on September 1, 2020 was timely.

## II.

Subsequently, at our request the parties participated in a commissioners' settlement conference and agreed to resolve the billing procedure issue in dispute by Stipulations.

The Stipulations, which were filed on June 14, 2021, consist of two pages and provide for an agreed-upon form and procedure to be used by HMC to support its billings. The Stipulations also provide that in light of the agreement between the parties, defendant's petition for reconsideration should be dismissed.

After considering the Stipulations in light of the record, we conclude that the Stipulations are in the best interest of applicant. We note that the parties complied with the WCJ's order to meet and confer by participating in the commissioners' settlement conference and resolving their differences. Therefore, we will approve the Stipulations filed on June 14, 2021, dismiss defendant's petition for reconsideration, and affirm the Joint Findings of Fact and Order issued by the WCJ on May 29, 2020.

Finally, we commend the parties for engaging in good faith negotiations and successfully resolving the issue in dispute in this matter without the need for further litigation.

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<sup>1</sup> Governor Newsom's Executive Order N-68-20 may be accessed here: <https://www.gov.ca.gov/wp-content/uploads/2020/06/6.5.20-EO-N-68-20.pdf>. (See Evid. Code, § 452(c).)

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board (1) that the Stipulations filed June 14, 2021 be **APPROVED**, (2) that the petition for reconsideration filed by defendant be **DISMISSED**, and (3) that the Joint Findings of Fact and Order issued by the workers' compensation administrative law judge on May 29 2020, be **AFFIRMED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**

I CONCUR,

**/s/ MARGUERITE SWEENEY, COMMISSIONER**



**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**June 25, 2021**

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

**RICHARD DIER, GUARDIAN AD LITEM AND TRUSTEE FOR EDWARD GARCIA FLOYD, SKEREN, MANUKIAN, LANGEVIN  
STATE COMPENSATION INSURANCE FUND**

***DH/pc/ara***

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