

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

**MATILDE CHEN, *Applicant***

**vs.**

**PARTNERS PERSONNEL MANAGEMENT SERVICES, LLC;  
STAR INSURANCE administered by CORVEL, *Defendants***

**Adjudication Numbers: ADJ15809866; ADJ15809836  
Los Angeles District Office**

**OPINION AND DECISION  
DENYING PETITION FOR RECONSIDERATION**

Defendant seeks reconsideration of a February 22, 2024 Findings and Order (F&O) issued by a workers' compensation administrative law judge (WCJ) wherein the WCJ found good cause for the issuance of additional Qualified Medical Evaluation (QME) panels in the specialties of ophthalmology, neurology, and psychiatry based upon the opinion of the orthopedic QME, Dr. Joanne Halbrecht, who recommended QMEs in those specialties after finding applicant's claims of injury to her "head, eyes, and stress" to be outside her area of expertise. (F&O, p. 3.)

Defendant contends that the reliability and substantiality of Dr. Halbrecht's reporting has been placed into question since applicant received interpretation in Spanish rather than her native Q'eqchi. (Petition, p. 7.) As such, defendant alleges there is no good cause for the additional QME panels. (*Id.*)

We have not received an Answer from the applicant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We find it relevant here to discuss the distinction between a petition for reconsideration and a petition for removal. A petition for reconsideration is taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order is defined as one that determines "any substantive right or liability of those involved in the case" or a "threshold" issue fundamental to a claim for benefits. (*Rymer v. Hagler 2* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd.* (1980) 104 Cal.App.3d 528, 534-535 [45

Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]; *Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Threshold issues include, but are not limited to, injury AOE/COE, jurisdiction, the existence of an employment relationship, and statute of limitations. (See *Capital Builders Hardware, Inc. v. Workers' Comp. Appeals Bd.* (2016) 5 Cal.App.5th 658, 662 [81 Cal.Comp.Cases 1122].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Maranian, supra*, at 1075 ["interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not 'final'"]; *Rymer, supra*, at p. 1180 ["[t]he term ['final'] does not include intermediate procedural orders or discovery orders"]; *Kramer, supra*, at p. 45 ["[t]he term ['final'] does not include intermediate procedural orders".]) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, and other similar issues.

A decision issued by the Appeals Board may address a hybrid of both threshold and interlocutory issues. If a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the decision resolves a threshold issue. However, if the petitioner challenging a hybrid decision only disputes the WCJ's determination regarding interlocutory issues, then the Appeals Board will evaluate the issues raised by the petition under the removal standard.

Here, the February 22, 2024 F&O involves both threshold and interlocutory issues. As such, it is hybrid decision. However, applicant is only challenging WCJ's finding regarding the procurement of additional medical-legal evidence—a nonfinal decision on an interlocutory issue. As such, we will consider defendant's Petition under the removal standard.

Removal is an extraordinary remedy rarely exercised by the appeals board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The appeals board will grant removal only if the petitioner can show that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a).) The petitioner must also demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (*Id.*) Here, based upon the WCJ's analysis of the merits of defendant's arguments, we are not persuaded that substantial prejudice

or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy if the matter ultimately proceeds to a final decision adverse to defendant.

Defendant argues that the reliability and substantiality of Dr. Halbrecht's reporting has been placed into question since applicant received interpretation in Spanish rather than her native Q'eqchi. (Petition, p. 7.) The fact that Applicant did not receive interpretation in Q'eqchi, however, does not change the fact that applicant is alleging injury to the head, eyes, and stress and the current orthopedic QME, Dr. Halbrecht, has expressed her inability to address these injury claims and has therefore recommended evaluation by QMEs in the specialties of ophthalmology, neurology, and psychiatry.

Administrative Director (AD) Rule 31.7(b) provides for an additional QME panels in other specialties, as follows, in relevant part:

(b) Upon a showing of good cause that a panel of QME physicians in a different specialty is needed to assist the parties reach an expeditious and just resolution of disputed medical issues in the case, the Medical Director shall issue an additional panel of QME physicians selected at random in the specialty requested. For the purpose of this section, good cause means:

(1) A written agreement by the parties in a represented case that there is a need for an additional comprehensive medical-legal report by an evaluator in a different specialty and the specialty that the parties have agreed upon for the additional evaluation; or

(2) Where an acupuncturist has referred the parties to the Medical Unit to receive an additional panel because disability is in dispute in the matter; or

(3) An order by a Workers' Compensation Administrative Law Judge for a panel of QME physicians that also either designates a party to select the specialty or states the specialty to be selected and the residential or employment-based zip code from which to randomly select evaluators; or

(4) In an unrepresented case, that the parties have conferred with an Information and Assistance Officer, have explained the need for an additional QME evaluator in another specialty to address disputed issues and, as noted by the Information and Assistance Officer on the panel request form, the parties have reached agreement in the presence of and with the assistance of the Officer on the specialty requested for the additional QME panel. The parties may confer with the Information and Assistance Officer in person or by conference call.

In the instant case, based upon the injuries claimed and the findings of orthopedic QME, Dr. Halbrecht, there is good cause for the additional QME panels.

For the foregoing reasons,

**IT IS ORDERED** that defendant's Petition for Reconsideration of the February 22, 2024 Findings and Order is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



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

**April 18, 2024**

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

**MATILDE CHEN  
LAW OFFICE OF RAMIN YOUNESSI  
EMPLOYER DEFENSE GROUP**

**RL/pm**

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