

Liens, Costs and Expenses

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EAMS and Lien Filing

Topics

- ❖ Injunctions of lien fees
 - ❖ Work Comp Expenses
 - Med treatment liens and other liens
 - Petitions for Costs
 - Medical-Legal Expenses
- ❖ Electronic filing and Fees
- ❖ Fee Reimbursement etc
- ❖ EAMS and Newslines

INJUNCTIONS

Angelotti Chiro v. Baker, US Dist Ct,
CV13-1139-GW(JEMx)

Preliminarily enjoins the collection of
activation fees starting 11/19/2013:

Stop collecting the \$100.00

Stop asking for Proof of Payment at Lien
conf and dismissing for failure to pay

Stop enforcing implementation Regs

No Dismissal of pre-1/1/2013 liens for non-
payment on 1/2/2014



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Angelotti Chiro v. Baker, US Dist Ct,
11/12/2013 Judge Wu

Does not affect \$150.00 filing fee

Does not discuss refund of previously
collected fees

Earliest Appeal is May 5, 2014



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**Kancilia v. Brown, et al USDC SDO and Sup Ct
Superior Ct Injunction hearing 1/6/2014**

**Chorn v. Brown, et al USDC LAO and Sup Ct
Superior Ct Injunction hearing 1/7/2014
USDC Injunction hearing 1/14/2014
Judge Wu**



WORK COMP EXPENSES

Medical Treatment Liens & Other Liens

Petitions for Costs

Medical- Legal Expenses



Liens:

All 9 types in LC 4903

(a) reasonable atty fee payable out of compensation

(b) reasonable medical treatment expense

includes Interpreter at treatment records ordered by treater



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(c) living expenses

(d) burial expenses

(e) spouse or child support

(f) EDD State Disability

(g) EDD unemployment

(h) EDD family disability benefits

(i) Victims of crimes indemnification



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Which liens pay a fee:

Medical treatment liens

Unless exempt or

Unless subject to IMR or IBR

Claims of costs filed as liens

Medical- legal expenses, unless IBR

All fees are paid electronically



What liens are exempt from fees?

listed exempt liens for medical treatment

LC4903.05(c) and 4903.06(b)

The 5 types are:

Health care service plan under H &S 1349

Group disability insurer under Ins 10270.5



**Self-insured employee welfare benefit
plan under Ins 10121**

Taft-Hartley health and welfare fund

**Publicly funded program providing med
benefits on a nonindustrial basis**



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Costs (not a lien):

LC 5710 depo atty fees

**LC 5811 costs. eg: interpreter bills at
App depo and Hearings**

**LC 4600 med treatment benes owed to
App. eg: transp, meals, lodging,
TD for lost wages**

File Pet for Costs

WCAB Reg 10301(h)

WCAB Reg 10451.3



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Which expenses do not pay a fee

**Petitions for costs
do not owe fees**

eg.: LC 5710 depo atty fees

**Limited LC 5811 costs... Interpreter bills
for depo and hearing**

**LB 4600 Med treatment benefits to App...
transp expenses**

WCAB Reg 10301(h)



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What if you file a Cost on a lien form?

**Filing a cost on the lien form is a
'claim of costs filed as a lien'
therefore owes a filing fee
(if still required)**



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Medical-legal expenses

Interpreter for AME/QME,
AME/QME,
Medical records/Copy Service
are costs, BUT

Petitions for these costs are not permitted
WCAB Reg 10301(h)

Martinez v. Allstate Ins Co

78 CCC 444 *en banc, fn6*



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Medical-Legal Expenses: file for

IBR

Pet for Determin of Non-IBR Med-Leg Exp

Petition Enforce IBR

Petition to Appeal IBR

If none are appropriate, then file a 'claim of costs filed as a lien' on a lien form and pay a fee (if still required)



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Electronic Filing and Fees

Which liens must file electronically?

LC4903.05(b)

Liens for medical treatment even if
exempt from fees

Claims of costs filed as liens

Medical-legal expenses going forward,
unless IBR



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Filing fee \$150.00 :

for med treatment liens and
claims of costs filed as liens
filed after 1/1/2013

Also medical-legal expenses

Pay at time lien is filed
electronically paid and filed



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Fail to Pay \$150.00 filing fee:

Lien is invalid

**Filing without payment
does not extend or preserve
the time limit for lien filing
LC4903.05(c)(1)(2)**



Activation fee \$100.00:

**for med treatment liens and
claims of costs filed as liens**

filed before 1/1/2013

Also medical-legal expenses_

Pay after lien is filed

Pay electronically



Fail to Payment \$100.00 activation fee:

Must prove payment by earliest of

- 1. file DOR for lien conf**
- 2. appear at lien conf**
- or**
- 3. by 1/1/2014**



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Activation fee paid by earliest of:

- 1. With the lien conf DOR,**

**Lien Claimant must prove Payment
LC4903.06(a)(2)**



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Activation fee paid by earliest of:

- 2. Prior to scheduled the lien conf,
Lien claimant of record shall bring
proof of activation payment
Otherwise lien shall be dismissed
with prejudice**

LC4903.06(a)(4)

Figueroa v. Employers Comp Ins

78 CCC 439 *en banc*



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Activation fee by earliest of:

- 3. By 1/1/2014,
Non-exempt med treatment lien or
claim of cost filed as a lien
filed before 1/1/2013
and no payment has been made or
no payment proof is available
Also medical-legal expenses**

Is Dismissed by Operation of Law

LC4903.06(a)(5)



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Fee Reimbursement by defendant:

1st method

1. Clear inclusive demand 30+ days before DOR or lien conf
2. Defendant fails to accept demand in writing within 20 days, and
3. Net award is $>$ or $=$ to demand

Judge orders reimbursement

LC4903.07(a)



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Fee Reimbursement by defendant:

2nd method

The parties agree to reimburse fee
as part of lien dispute resolution

Judge can order reimbursement

LC4903.07(b)



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**Liens of 2 or more service providers
may not be merged into a single lien.
LC 4903.05(c)(3)**

**Liens that prove payment of a filing fee
in 2004 – 2007 do not have to pay again.
LC 4903.06(a)**



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**A lien for goods or services
that is not the proper subject of a lien
may dismissed
by verified petition or
by court's own motion**

**If dismissed
no reimbursement of filing fee
LC 4903.05(c)(6)**



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Consolidated cases

**of liens for medical treatment filed before
1/1/2013 pay the \$100.00 activation
fee.**

DWC Reg 10208(b)

**No double fee required if med treatment
is the same service
by the same provider
for the same injured worker.**

DWC Reg 10208(a)



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Med Treatment Lien Statute/Limitations:

**Services before 1/1/2013, file lien within 3
years of last date of service provided.**

**Services after 1/1/2013, file lien within 18
months of last date of service provided.**

Different for exempt liens.

LC 4903.5(a)



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How to file: EAMS eforms

**Apply on website & 3 hour webinar
Fill out forms on line**

Petitions or liens

Lien includes payment option

Pay and submit

See lien next day



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How to file: EAMS Jet

Most people use a vendor

Liens. No Petitions yet

Provide info and payment info

See lien in a few hours

Can activate by Jet



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EAMS 2013

**Revised Lien form and DOR form
Created payment functions
Revised Jet lien filing process
Added Shopping Cart activations
Lien claimants get UANs
Suspend Collecting Activation fees**



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10/2/2013 DWCA Newsline

**WCAB SB863 Regs are effective on
10/23/2013.**

11/15/2013 DWCA Newsline

**DWC stops collecting Activation fees on
11/19/2013.**

12/16/2013 DWCA Newsline

**Electronic Doc Filing and Lien Filing Fee
rules approved.**



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Thank You

