

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

**FRANCIS MCDONALD JR., *Applicant***

**vs.**

**CORONADO STONE PRODUCTS; TRAVELERS PROPERTY CASUALTY, *Defendants***

**Adjudication Number: ADJ10609130  
Oxnard District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
RECONSIDERATION**

Lien Claimant, RMS Medical Group, seeks reconsideration of the February 22, 2022 Findings and Order wherein the workers' compensation administrative law judge (WCJ) found that lien claimant did not meet its burden of showing that it was entitled to recover on a lien for medical-legal expenses. The WCJ ordered that the lien be dismissed.

Lien claimant contends that it is entitled to recover medical-legal expenses, arguing that, because applicant was terminated from his employment, he was entitled to treat outside the employer's medical provider network (MPN) and that applicant selected Dr. Gottschalk as his primary treating physician (PTP).

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, we will deny reconsideration.

Although lien claimant is correct that a PTP may be paid for producing a comprehensive medical-legal report, lien claimant has not established that Dr. Gottschalk was applicant's PTP.

An employer must provide an injured worker with medical treatment that is reasonably required to cure or relieve the worker from the effects of an industrial injury. (Lab. Code, § 4600(a).) One way in which an employer may meet its obligation to provide reasonable medical treatment is by referring the employee to an MPN approved by the Administrative Director. (Lab. Code, §§ 4600(c), 4616–4616.7; Cal. Code Regs., tit. 8, §§ 9767.1–9767.15.)

A primary treating physician is the physician “primarily responsible for managing the care of the injured worker” and who has examined the employee at least once for the purpose of rendering or prescribing treatment.” (Cal. Code Regs., tit. 8, § 9785(a)(1).)

In this case, applicant’s claim was accepted and the employer provided applicant with a notice of its MPN. (Exh. A, September 20, 2016, Correspondence from Travelers to Applicant; Exh. B, September 23, 2016, MPN Notification.) Applicant first received treatment at Concentra on September 10, 2016. (Exh. D, September 10, 2016, Sushil Anand, Medical Report.) Applicant was first evaluated by Dr. Gottschalk on November 30, 2016. (Exh. 4, November 30, 2016-February 14, 2018, RMS Patient Ledger.) Defendant objected to that treatment on December 27, 2016 on the basis that lien claimant was not authorized to provide treatment. (Exh. C, December 27, 2016, Correspondence from Travelers to Dr. Gottschalk/ RMS Medical.)

Given that this is an accepted claim and applicant initially received treatment within the MPN, applicant could not designate a physician outside the MPN unless defendant failed to provide medical treatment within the MPN. Whether or not applicant continued to be employed by the same employer is not relevant to the determination of applicant’s entitlement to treat outside the MPN. Lien claimant has not claimed or shown that applicant was entitled to treat outside the MPN. Accordingly, we will deny reconsideration.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration of the February 22, 2022 Findings and Order is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

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

I CONCUR,

**/s/ DEIDRA E. LOWE, COMMISSIONER**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**



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

**MAY 16, 2022**

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

**DIETZ GILMOR & CHAZEN  
RMS MEDICAL GROUP**

**MWH/oo**

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

CS