

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

RICHARD COCHRAN, *Applicant*

vs.

**ERICSSON and CHUB, administered by CONSTITUTION STATE SERVICES,
*Defendants***

**Adjudication Number: ADJ12190515
Anaheim District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of the Findings of Fact and Order (F&O) issued by the workers' compensation administrative law judge (WCJ) on June 8, 2022, wherein the WCJ found in pertinent part that the May 10, 2021 utilization review non-certification was timely, that David Patterson, M.D., “should submit another request for authorization of a modified vehicle with all supporting documentation,” and the WCJ ordered that “applicant is not entitled to a modified vehicle but is not precluded from requesting the same again.” (F&O, p. 2.)

Applicant contends that the utilization review (UR) provider cannot request an extension of the UR deadline when it has all of the necessary information, and that the May 10, 2021 UR Modification Recommendation was not timely.

We received a Report and Recommendation on Petition for Reconsideration (Report) from the WCJ recommending the Petition for Reconsideration (Petition) be denied. We did not receive an Answer from defendant.

We have considered the allegations in the Petition and the contents of the Report. Based on our review of the record, for the reasons stated by the WCJ in the Report, and for the reasons discussed below, we will deny reconsideration.

BACKGROUND

Applicant claimed injury to his spine, lower extremities, lungs, bowel, bladder, psyche, and in the form of sexual dysfunction while employed by defendant as a tower technician on April

19, 2019. On the day of the injury applicant underwent an emergency decompression surgery at the L1 - L2 level and a posterior spinal fusion at the T10 – L3 level, and was rendered paraplegic. (App. Exh. 1, Dr. Patterson, April 1, 2021, p. 1, History of Present Illness [HPI].) Subsequently, applicant received physical medicine and rehabilitation treatment from Dr. Patterson. On April 26, 2021, Dr. Patterson issued a Request for Authorization (RFA) for a Driving Evaluation. The RFA notes “patient paid privately already so could get done ... *Patient to be reimbursed” (App. Exh. 4, Dr. Patterson, April 26, 2021, EAMS p. 4, asterisk in original.) On May 3, 2021, CorVel mailed (and emailed) Dr. Patterson a notice that “Additional information is necessary to reach a determination of the medical necessity of your request.” (Joint Exh. A, CorVel, May 3, 2021.) By its May 10, 2021 Modification Recommendation, CorVel authorized the requested “Pressure Mapping ... Driving Evaluation ... [and] replace current wheelchair cushion” and it denied the “3T MRI ... [and] Modified Vehicle.” (Joint Exh. A, CorVel, Ingrid Vega adjuster, May 10, 2021, pp. 1 - 2.) The explanations for CorVel’s conclusions, authored by Eddie Sassoon, M.D., included:

The patient presents with a history of left pneumothorax and bilateral pulmonary contusions and a history of infection and lumbar surgical site as well as neurogenic bowel and gastrointestinal paresis. As the [sic] patient presented with complex spinal cord injury, the requested driving evaluation is reasonable to address appropriate adaptive needs for the patient with regards to ability to operate a motor vehicle. Therefore, the request for Driving Evaluation is medically necessary and certified.

(Joint Exh. A, EAMS p. 10.)

As the [sic] patient presented with complex spinal cord injury, a driving evaluation was requested to address appropriate adaptive needs for the patient with regards to ability to operate a motor vehicle. It is felt that the outcome of the driving evaluation should first be assessed prior to considering the necessity for modified vehicle purchase to evaluate what modifications and recommendations are made.

(Joint Exh. A, EAMS p. 10.)

The parties proceeded to trial on May 24, 2022. The WCJ’s summary of applicant’s testimony included:

Dr. Patterson referred him for adaptive driving. He had an evaluation. Exhibit 2 which is the 4-1-2021 report was the referral for the adaptive driving. He had the evaluation a few weeks after that referral. The outpatient evaluation was done April 16th, 2021. The evaluation was done at Casa Colina. It took a few hours. The driving evaluation was paid for by workers’ compensation. He

initially paid and then was reimbursed. ... ¶ ... He was reimbursed for the driving evaluation by the carrier.
(Minutes of Hearing and Summary of Evidence (MOH/SOE), May 24, 2022, pp. 3 - 4.)

The issue submitted for decision was applicant's entitlement to purchase a modified vehicle at defendant's expense. (MOH/SOE, p. 2.)

DISCUSSION

It appears there is no dispute that applicant underwent the driving evaluation, that he paid for it, and that he was reimbursed by defendant. (App. Exh. 3, Outpatient Driving Evaluation, April 16, 2021; MOH/SOE, pp. 3 - 4.) However, as the WCJ stated in her Report:

There was no evidence offered that this report [the driving evaluation] was ever served on Defendants or reviewed by Dr. Patterson. As noted in the non-certification, along with the driving evaluation psychological issues, treatment plan and medical necessity were also required to complete the UR. It was not just a matter of the Applicant passing a driving evaluation. The request for additional information was valid. The driving evaluation on its own without medical review was not complete to support medical necessity and the other information requested was not provided. In light of that, the utilization review was timely.
(Report, p. 3.)

We agree with the WCJ's conclusion, and it must be noted that in the F&O the WCJ found that, "Dr. Patterson should submit another request for authorization of a modified vehicle with all supporting documentation." (F&O, p. 2, Finding #4.) This Finding is consistent with Dr. Sassoon's statement that, "[T]he outcome of the driving evaluation should first be assessed prior to considering the necessity for modified vehicle purchase to evaluate what modifications and recommendations are made." (Joint Exh. A, EAMS p. 10.) Also, it is important to note that the UR decision to deny the modified vehicle was issued on May 10, 2021. Clearly, more than 12 months have passed since the denial was issued and based thereon, if he finds it appropriate to do so, Dr. Patterson may submit a new RFA for a modified vehicle, with the required supporting documentation. (See Lab. Code, § 4610(k).)

Accordingly, we deny reconsideration.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Findings of Fact and Order issued by the WCJ on June 8, 2022, is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

KATHERINE WILLIAMS DODD, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 9, 2022

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

**RICHARD COCHRAN
BENTLEY & MORE
FLOYD, SKEREN, MANUKIAN & LANGEVIN**

TLH/pc

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