

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

ANTONIO COLINDRES, *Applicant*

vs.

**PRESTIGE MOTORCOACH CORP.; TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA, administered by TRAVELERS, *Defendants***

**Adjudication Number: ADJ8948890
Los Angeles District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Lien claimant, Reliable Medical Supply, seeks reconsideration of the Findings and Order (F&O) issued on July 24, 2025, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that lien claimant did not meet its burden to prove that the medical treatment services it provided to applicant were reasonably required to cure or relieve from the effects of the industrial injury.

Lien claimant contends that the issue of medical necessity of the treatment was not raised on the pretrial conference statement (PTCS) and therefore should not have been submitted or decided as an issue by the WCJ. (Petition for Reconsideration (Petition), p. 5.) Lien claimant also alleges that defendant "failed to respond to the SBR appeal" or "provide substantial evidence of a lesser value than the OMFS" and is "noncompliant with [corresponding] statutes and regulations." (*Ibid.*)

We have received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will deny the Petition.

FACTS

Applicant, while employed by defendant as an electrician on September 1, 2012, sustained an injury arising out of and in the course of employment (AOE/COE) to the low back.

Applicant sought treatment from Dr. Hitendra Shah of First Choice Healthcare Medical Group, Inc. During a visit on May 10, 2013, Dr. Shah issued a prescription for durable medical equipment, including a lumbosacral orthosis (LSO) brace. (Lien Claimant Exhibits 2, 6.) The equipment was provided by Reliable Medical Supply who issued a bill to defendant in the amount of \$1,798.00. (Lien Claimant Exhibit 1.)

Thereafter, the underlying case was resolved via a Compromise and Release Agreement (C&R), with an Order Approving Compromise and Release (OACR) issuing on July 22, 2015. The C&R indicates that the settlement was based upon the report of Agreed Medical Evaluator (AME), Dr. William Mouradian. The report, however, was never filed by the parties. (C&R, July 22, 2015, p. 10.)¹

On May 9, 2016, a Notice and Request for Allowance of Lien was then filed by Reliable Medical Supply. Lien claimant and defendant ultimately reached an impasse with respect to the lien, and on December 16, 2024, defendant filed a Declaration of Readiness to Proceed to a lien conference. The lien conference was set for March 17, 2025, at which time the matter was continued to a May 20, 2025 lien trial.

On May 14, 2025, a jointly executed PTCS was filed. The PTCS listed the following issues with respect to the lien: official medical fee schedule (OMFS)/reasonable value of the lien; penalty and interest for non-payment of OMFS value per section 4603.2(b); defendant's noncompliance to SBR appeal; and costs and sanctions for unnecessary litigation.

The Minutes of Hearing (MOH) from the May 20, 2025 trial, reflect, in relevant part, the following:

¹ WCAB Rule 10700(a) states: When filing a Compromise and Release or a Stipulations with Request for Award, the filing party shall file all agreed medical evaluator reports, qualified medical evaluator reports, treating physician reports, and any other that are relevant to a determination of the adequacy of the Compromise and Release or Stipulations with Request for Award that have not been filed previously. (Cal. Code Regs., tit. 8, § 10700(a).)

Further, WCAB Rule 10803(b) advises: (b) Upon approval of a Compromise and Release or Stipulations with Request for Award, all medical reports that have been filed as of the date of approval shall be deemed admitted in evidence and part of the record of proceedings. (Cal. Code Regs., tit. 8, § 10803(b).)

THE FOLLOWING FACTS ARE ADMITTED:

1. Antonio Colindres, born [], while employed on September 1, 2012, as an auto electrician, at Gardena, California, by Prestige Motorcoach Corp, sustained injury arising out of and in the course of employment to his low back.
2. At the time of injury, the employer's workers' compensation carrier was Travelers Property Casualty Company of America.

THE ISSUES ARE:

1. Lien of Reliable Medical Supply, who is seeking reimbursement for treatment expense.
 - a) Penalties and interest.
 - b) Necessity of the services.
 - c) Value.

LET THE MINUTES REFLECT that originally on the Pre-trial Conference Statement the issue of necessity was not raised; however, the lien claimant has the burden of proof on all issues relating to the compensability of its lien, and necessity was raised today. Lien Claimant was given the opportunity for a continuance for additional opportunity to amend the Pre-trial Conference Statement or to better prepare for that issue; however, Lien Claimant has denied that offer.

(MOH, May 20, 2025, p. 2:3-19.)

Defendant submitted into evidence a bill review dated September 5, 2024. (Defense Exhibit A.) Lien claimant submitted into evidence a bill for the durable medical equipment; the May 10, 2013 prescription; delivery acknowledgement for the durable medical equipment prescribed; a written request for a second bill review; an August 27, 2022 letter from Palmetto GBA, LLC; a May 10, 2013 report from Dr. Shah; and an "IQ Review" printout showing the alleged state allowance for a LSO brace. (Lien Claimant Exhibits 1-7.) Thereafter, the matter stood submitted.

On July 22, 2025, the WCJ issued an F&O which held, in relevant part, that lien claimant did not meet its burden to prove that the medical treatment services it provided to applicant were reasonably required to cure or relieve from the effects of the industrial injury, and ordered the lien disallowed. It is from this F&O that lien claimant now seeks reconsideration.

DISCUSSION

I.

Preliminarily, former Labor Code² section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b) (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected under the Events tab in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on August 12, 2025, and 60 days from the date of transmission is October 11, 2025, which is a Saturday. The next business day 60 days from the date of transmission, is Monday, October 13, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)³ This decision was issued by or on October 13, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to

² All further statutory references will be to the Labor Code unless otherwise indicated.

³ WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers’ Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall constitute notice of transmission.

Here, according to the proof of service for the Report, it was served on August 12, 2025, and the case was transmitted to the Appeals Board on August 12, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on August 12, 2025.

II.

Turning now to the merits of the Petition, it is well established that “[w]here a lien claimant (rather than the injured employee) is litigating the issue of entitlement to payment for industrially-related medical treatment, the lien claimant stands in the shoes of the injured employee and the lien claimant must prove by preponderance of the evidence all of the elements necessary to the establishment of its lien.” (*Kunz v. Patterson Floor Coverings, Inc.* (2002) 67 Cal.Comp.Cases 1588, 1592 (Appeals Bd. en banc).) Section 5705 provides that “[t]he burden of proof rests upon the party or lien claimant holding the affirmative of the issue.” Accordingly, the lien claimant carries the “affirmative burden of proving that its lien is reasonable, and it must carry this burden by a preponderance of the evidence. (Lab. Code, §§ 5705; 3202.5; *Tapia v. Skill Masters Staffing* (2008) 73 Cal.Comp.Cases 1338, 1342–1343 (Appeals Bd. en banc).)

A lien claimant that seeks medical reimbursement must also establish that the treatment provided was reasonable and necessary to cure or relieve the effects of the alleged industrial injury. (Lab. Code, §§ 4600, 4610.5(c)(2), 5705.) Proving reasonableness and necessity of medical treatment is ordinarily achieved through utilization review (UR) and/or independent medical review (IMR) and employers are required to establish an UR process for treatment requests received from physicians. (Lab. Code, §§ 4610, 4601.5; *State Comp. Ins. Fund v. Workers’ Comp. Appeals Bd. (Sandhagen)* (2008) 44 Cal.4th 230, 236.) “The utilization review process begins when the completed DWC Form RFA, or a request for authorization, accepted as complete under section 9792.9.1(c)(2), is first received by the claims administrator, or in the case of prior authorization, when the treating physician satisfies the conditions described in the utilization review plan for prior authorization.” (Cal. Code Regs., tit. 8, § 9792.6.1(y).)

Here, based upon our review of the evidentiary record, we see no evidence that a DWC Form RFA was submitted by Dr. Shah or lien claimant to defendant. As a result, it does not appear that the UR process was initiated or completed by defendant.

Further, pursuant to section 4600(b), “medical treatment that is reasonably required to cure or relieve the injured worker from the effects of the worker’s injury means treatment that is based upon the guidelines adopted by the administrative director pursuant to Section 5307.27.” (Lab. Code, § 4600(b); see also Lab. Code, § 4610.5(c)(2) [defining “medically necessary” and “medical necessity” as treatment based on certain standards].) Section 5307.27 specifies that these guidelines refer to the medical treatment utilization schedule (MTUS). (Lab. Code, § 5307.27(a); see also Cal. Code Regs., tit. 8, § 9792.20 et seq.) The MTUS is presumptively correct on the extent and scope of treatment and is the primary source of guidance for physicians. (Lab. Code, § 4604.5(a); Cal. Code Regs., tit. 8, § 9792.21(c).) The MTUS, however, may be rebutted, and treatment may be warranted based on recommendations outside the MTUS in limited situations. (Cal. Code Regs., tit. 8, § 9792.21(d); see also Lab. Code, § 4604.5(d).)

Here, in contravention to section 5307.27, Dr. Shah’s May 10, 2013 report (Lien Claimant Exhibit 6) and corresponding prescription (Lien Claimant Exhibit 2), do not include citations to the MTUS or other evidence-based treatment guidelines which support the need for the specified treatment. Further, there are no other medical reports in the evidentiary record which support the need for the LSO brace or any other medical treatment requested by Dr. Shah during applicant’s May 10, 2013 visit.

Lastly, we underscore that although the WCJ provided lien claimant at trial the opportunity to continue the matter to amend the PTCS and supplement their proposed exhibits in order to address the issue of reasonableness and necessity of the subject medical treatment, they declined to do so and elected instead to proceed with their existing evidence.

Accordingly, we agree with the WCJ that lien claimant did not meet its burden to prove that the medical treatment services provided to applicant were reasonable and necessary. As such, we deny lien claimant’s Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration of the July 24, 2025 Findings and Order is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 7, 2025

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

**RELIABLE MEDICAL SUPPLY
ZA MANAGEMENT
TESTAN LAW**

RL/cs

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