

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

BARBARA CRATER, *Applicant*

vs.

**CRATE & BARREL HOLDINGS INC; PROPERTY & CASUALTY COMPANY OF
HARTFORD, administered by SEDGWICK CLAIMS MANAGEMENT SERVICES,
*Defendants***

**Adjudication Number: ADJ17825300
Santa Ana District Office**

**OPINION AND ORDER DENYING
PETITION FOR RECONSIDERATION**

Defendant seeks reconsideration of the Findings of Fact issued on June 18, 2025, wherein the workers' compensation administrative law judge (WCJ) found as relevant that (1) while employed as a furniture salesperson on May 15, 2022, applicant sustained injury to the head, brain, and psyche, and claims to have sustained injury to the heart and sleep; (2) defendant did not meet its burden of proving that there is an approved and enforceable Medical Provider Network (MPN) that provides ancillary services; (3) there is no MPN control over the selection of the home care provider; (4) applicant has the right to select a family member as her home care provider; (5) there is a legitimate issue as to the enforceability of a MPN's control over the selection of a home care provider; (6) defendant's litigation of the issue of a MPN's control over the selection of a home care provider does not rise to the level of a bad faith action within the meaning of Labor Code section 5813; and (7) applicant is not entitled to attorney fees pursuant to Labor Code section 5813.

Defendant contends that the WCJ erroneously found that (1) defendant did not meet its burden of proving that there is an enforceable MPN that provides ancillary services; and (2) applicant has the right to select a family member as her home care provider.

We received an Answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have considered the allegations of the Petition, the Answer, and the contents of the Report. Based upon our review of the record and as discussed below, we will deny the Petition.

FACTUAL BACKGROUND

On May 12, 2025, the matter proceeded to expedited trial on the following issues:

1. Whether Applicant can elect a family member to perform non-skilled home health care services.
2. Whether defendant can assert MPN control over the selection of the home caregiver.
3. Attorney fees pursuant to Labor Code 5813.

(Minutes of Hearing and Summary of Evidence, May 12, 2025, p. 2:13-15.)

The WCJ admitted the Primary Treating Physician's Report of Eric Yokoo, M.D., dated December 19, 2024, into evidence. (Ex. 2, Primary Treating Physician's Report of Eric Yokoo, M.D., December 19, 2024.)

The WCJ also admitted defendant's Utilization Review Authorization Letter dated April 2, 2025, into evidence. Addressed to Dr. Yokoo, it states:

In accordance with your request dated 03/17/2025, please be advised that your request for authorization for care attendant 28hrs/week neuro- optometry, eval endocrine consult, ENT consult 6 months, received on 03/27/2025, is approved. If you have any questions, you may contact . . .

(Ex. 4, Utilization Review Authorization Letter, April 2, 2025.)

The WCJ also admitted defendant's Letter to Applicant's Attorney re Contacting Sedgwick Ancillary dated May 7, 2025, into evidence. It states:

Please contact Sedgwick Ancillary Care Network to schedule the six months of Care Attendance for 28 hours per week for applicant. The Care Attendant can be scheduled by contacting the Sedgwick Ancillary Care Network, (800) 821-5364, or via fax at (727) 535-0955.

(Ex. A, Letter to Applicant's Attorney re Contacting Sedgwick Ancillary, May 7, 2025.)

Applicant's daughter, Chelsea Turchi, testified that she is aware of the home care assessment for applicant, that she would like to be the home care provider for her, that she has been providing home care for applicant since the injury, and that she can provide 28 hours of care per week. (Minutes of Hearing and Summary of Evidence, May 12, 2025, pp. 4:20-22, 6:4.) Ms. Turchi also testified that applicant finds strangers in the home distressing and prefers that only family members be there. (*Id.*, p. 5:17-18.)

In the Opinion on Decision, the WCJ states:

As the defendant holds the affirmative of the issue the defendant has the burden of proving that there is a Medical Provider Network that provides ancillary services. The defendant has submitted evidence that the applicant was instructed to contact Sedgwick Ancillary Care Network to schedule the six months of Care Attendance for 28 hours per week.[fn]

...

No other evidence has been provided that identifies a Medical Provider Network that has ancillary services from which the applicant could select a provider.

As such, the defendant has not met its burden in establishing that there is an approved and enforceable Medical Provider Network that provides ancillary services.

Based on the above, the court finds that there is no Medical Provider Network control over the selection of the home caregiver.

(Opinion on Decision, p. 5.)

In the Report, the WCJ states:

Applicant Barbara Crater, while employed on May 15, 2022, as a furniture salesperson, in Costa Mesa, California, by Crate & Barrel Holdings, Inc., sustained injury arising out of and in the course of employment to her head, brain, and psyche when she tripped and hit her head on a sofa armrest, resulting in a subdural hematoma and cognitive injury.[fn]

...

The specific issue submitted to the Undersigned Judge for determination was “[w]hether defendant can assert MPN control over the selection of the home caregiver.”

Components for having a Medical Provider Network control include a valid Medical Provider Network that has been properly established and has adequate access to providers.

The parties did not stipulate that the defendant had a valid and properly noticed Medical Provider Network.

...

The evidence submitted did not demonstrate that the defendant had a medical provider network that it could control in selecting the home caregiver.

...

The defendant asserts that the judge erred in determining that the applicant has the right to select a family member as her home care provider.

...

The Undersigned Judge found that the defendant had not met its burden in establishing the existence of an approved and enforceable Medical Provider Network that provides ancillary services.

As such, the issue of the defendant's ability to assert medical provider network control over the applicant's right to select her own home care provider was moot.

...

The defendant asserts that the Undersigned Judge's determination that the applicant has the right to select a family member as her home care provider negates the legislative goal and purpose of SB 863.

...

As the Undersigned Judge found no Medical Provider Network that provided ancillary services, the Undersigned Judge determined that the applicant has the right to select a family member as her home care provider, is not arbitrary and, as such, does not run counter to the legislative intent behind SB 863.

(Report, pp. 1-5.)

DISCUSSION

I.

Former Labor Code section 5909¹ 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. (§ 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part:

(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 in Events 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 July 24, 2025, and 60 days from the date of transmission is September 22, 2025. This decision is issued by or on September 22, 2025, so that we have timely acted on the petition as required by section 5909(a).

¹ Unless otherwise stated, all further statutory references are to the Labor Code.

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

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on July 24, 2025, and the case was transmitted to the Appeals Board on July 24, 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 July 24, 2025.

II.

We turn first to defendant's argument that the WCJ erroneously found that it did not meet its burden of proving that there is an enforceable MPN that provides ancillary services. Specifically, defendant argues that since the parties did not frame the issue of whether an enforceable MPN exists for trial, the WCJ erred by determining the issue.

Section 4600 provides that an employer must provide "[m]edical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury." (§ 4600 (a).)

It is well-settled that home health care is an appropriate benefit under section 4600, and that home care services need not be provided by a nursing professional to be compensable. (*Henson v. Workers' Comp. Appeals Bd.* (1972) 27 Cal.App.3d 452 (awarding compensation to wife of injured worker who provided home healthcare to injured worker); *Smyers v. Workers' Comp. Appeals Bd.* (1984) 157 Cal.App.3d 36, 42 (housekeeping services reimbursable where they are "necessary and reasonable in order to allow the injured worker to fully comply with the treatment prescribed by [the applicant's] physician"); *Hodgman v. Workers' Comp. Appeals Bd.* (2007) 155 Cal.App.4th 44, 65 (care provided by mother of injured worker found reimbursable).)

In this case, applicant's treating physician, Dr. Yokoo, requested authorization for home care of 28 hours per week for six months, and defendant authorized the request. (Ex. 4, Utilization Review Authorization Letter, April 2, 2025.)

Defendant's authorization does not suggest that a MPN exists which would permit it to control the provision of home care. (Ex. 4, Utilization Review Authorization Letter, April 2, 2025.) Nor does any other document in evidence. (Ex. A, Letter to Applicant's Attorney re Contacting Sedgwick Ancillary dated May 7, 2025; Opinion on Decision, p. 5; Report, p. 4.)

Though defendant's letter to applicant's counsel states that applicant should "contact Sedgwick Ancillary Care Network" to schedule home care, it neither asserts the existence of a MPN, provides a MPN identification number, or describes the services available through a MPN. (Ex. A, Letter to Applicant's Attorney re Contacting Sedgwick Ancillary dated May 7, 2025; see Cal. Code Regs., tit. 8, § 9767.12 (providing that when an employer has knowledge of an injury that is subject to an MPN, the employer must provide written notification of the MPN, including the MPN identification number, and a description of the services available through the MPN).)

Because the record fails to establish the existence of an enforceable MPN, the record lacks foundational support for defendant to establish its alleged right to "assert MPN control over the selection of the home caregiver." (Minutes of Hearing and Summary of Evidence, May 12, 2025, p. 2:13-15; Report, p. 4.)

Accordingly, we are unable to discern error in the WCJ's finding that defendant failed to meet its burden of proving that there is an approved and enforceable MPN for ancillary services.

We turn next to defendant's contention that the WCJ erroneously found that applicant has the right to select a family member as her home care provider. Specifically, defendant argues that (1) it has a MPN which precludes applicant from selecting a family member as a home care provider; and (2) the decision authorizing applicant to select a family member undermines the purpose of Senate Bill 863, which provides for the use of MPNs for workers' compensation.

In general, an applicant may select a family member to serve as home health care provider where there is a documented need for the home care and the family member is able to provide the care. (See *Hodgman, supra*; *County of Los Angeles v. Workers' Comp. Appeals Bd. (Intrachooto)*, 76 Cal.Comp.Cases 1000, 2011 Cal. Wrk. Comp. LEXIS 131; *Barragan v. American Bridge*, 2012 Cal. Wrk. Comp. P.D. LEXIS 331; *Gomez v. Premium Roof Servs.*, 2012 Cal. Wrk. Comp. P.D. LEXIS 284.)

Defendant argues these authorities have no application here. For example, defendant argues that *Gomez, supra*, may be distinguished from this case because that decision found that the applicant could select a family member as his home care provider only after the initial provider, who had been selected by the defendant pursuant to stipulation, had failed to provide the applicant with adequate care.

But we have explained that defendant failed to establish its alleged right to select applicant's home care provider in the first instance. Consequently, the foregoing case authorities permitting applicant to select her home care provider remain applicable, and her selection of a home care provider has no bearing on the purpose of Senate Bill 863.

As to whether Ms. Turchi can provide the authorized home care, her testimony shows that she is familiar with the home care assessment, has been providing the home care for applicant since the injury, and can provide the requisite 28 hours of care per week. (Minutes of Hearing and Summary of Evidence, May 12, 2025, pp. 4:20-22, 6:4.) Ms. Turchi also testified that applicant finds strangers in the home distressing and prefers that only family members be there. (*Id.*, p. 5:17-18.)

Hence, we conclude that Ms. Turchi is capable of providing applicant's home care and discern no error in the finding that applicant may select her to provide such care.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Findings of Fact issued on June 18, 2025 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 22, 2025

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

**BARBARA CRATER
BENTLEY & MORE, LLP
LAW OFFICE OF DANIEL GOGGINS**

SRO/bp

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