

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

ANNA HONG, *Applicant*

vs.

**SBC INTERNET SERVICES/PACIFIC BELL; AMERICAN HOME ASSURANCE,
administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Numbers: ADJ2419734 (SFO 0504906);
ADJ2647713 (SFO 0504908); ADJ292246 (SFO 0505632)
San Francisco District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant in pro per seeks reconsideration of the Joint Findings of Fact issued on January 20, 2026, wherein the workers' compensation administrative law judge (WCJ) found that (1) while employed during the periods ending July 19, 2005 (ADJ2419734), July 1, 2004 (ADJ2647713), and April 30, 2008 (ADJ292246), by defendant SBC Internet Services/Pacific Bell, applicant sustained injury arising out of and occurring in the course of employment to her upper extremities; (2) at the time of the injury identified in Finding of Fact No. 1, defendant SBC Internet/Pacific Bell was insured for purposes of workers' compensation benefits by American Home Assurance; (3) as a result of the injury identified in Finding of Fact No. 1, applicant's treating physician requested authorization for a motorized wheelchair on July 30, 2025; (4) the utilization review (UR) determination made August 4, 2025 was a timely denial of durable medical equipment within the meaning of Labor Code section 4610; and (5) the WCAB lacks jurisdiction to determine if a motorized wheelchair is reasonable and necessary to cure the effects of the injury at this time.

Applicant contends that her physician's request for authorization for a motorized wheelchair is not subject to UR because defendant authorized a prescription for a motorized wheelchair in September 2011.

We received an Answer from defendant.

The WCJ issued a Joint 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 dismiss the Petition for Reconsideration as untimely.

FACTUAL BACKGROUND

In the Report, the WCJ states:

It appears that the petition was not filed timely, as the order in question was served on January 20, 2026.

...

The applicant has a lifetime medical award to her bilateral upper extremities, dated April 26, 2010. The applicant also suffers from non-industrial disabilities that require she sometimes use a wheelchair. In 2011, the wheelchair she had been using was modified to be made into an electric wheelchair. These modifications were made by the workers' compensation carrier for this injury to the upper extremities because the applicant's treating physician explained that the applicant could not use her wheelchair because of the disability to her upper extremities and therefore it was reasonable to have the modifications done under this claim.

In July 2025, the applicant's treating physician determined that the old, modified wheelchair was no longer working and he requested authorization for a motorized wheelchair. The request was received by the carrier on July 29, 2025, and it was denied by UR on August 4, 2025. Independent Medical Review (IMR) was requested. IMR upheld the UR denial. Applicant filed for an expedited hearing. Based on the applicant's credible testimony and the documentary evidence I found that the UR was timely and valid, and that I did not have jurisdiction in this case to determine the medical necessity of the request for a motorized wheelchair because under the Labor Code the type of durable medical equipment being requested falls under the provisions for UR, specifically, Labor Code section 4610 and thereafter, IMR under Labor Code section 4610.5.

...

I recommend that applicant's Petition for Reconsideration, filed herein on February 23, 2026, be denied.

(Report, pp. 2-4.)

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:

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

(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 March 9, 2026, and 60 days from the date of transmission is May 8, 2026. This decision is issued by or on May 8, 2026, 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 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 March 9, 2026, and the case was transmitted to the Appeals Board on March 9, 2026. 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 March 9, 2026.

II.

There are 20 days allowed within which to file a petition for reconsideration from a “final” decision, plus 5 calendar days if a party has been served by mail upon an address in California.

(§§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) In addition, if a party to be served is outside of California but within the United States, the time in which to act is 10 calendar days from the date of service, or 30 days total. (Cal. Code Regs., tit. 8, § 10605(a)(2).)

This time limit is jurisdictional, and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650, 656]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008, 1011]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73, 75–76].)

Here, the Joint Findings of Fact was served on January 20, 2026, on all interested parties, including defendant Sedgwick Claims Management Services, whose mailing address is in Lexington, Kentucky. Thus, the period for applicant to file the Petition for Reconsideration was extended until February 19, 2026. However, since applicant did not file the Petition until February 23, 2026, it was untimely.

Accordingly, we will dismiss the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Joint Findings of Fact issued on January 20, 2026 is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER



I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 7, 2026

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

**ANNA HONG
COLEMAN CHAVEZ & ASSOCIATES**

SRO/*kl*

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