

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

DEBORAH HEMSTED, *Applicant*

vs.

**UNITED INDIAN HEALTH SERVICES;
TRIBAL FIRST INSURANCE, administered by
ALLIANT INSURANCE SERVICES SAN DIEGO, *Defendants***

**Adjudication Number: ADJ10124964
Santa Rosa District Office**

**OPINION AND DECISION
AFTER REMITTITUR**

The following Decision After Remittitur is issued pursuant to the Order issued on September 17, 2025 by the First District Court of Appeal, Division 5 (the Court), in which the Court reversed the Opinion and Decision after Reconsideration issued on June 4, 2024 and remanded the matter to the Appeals Board for further proceedings consistent with the Court's decision. (See *United Indian Health Services, Inc./Tribal First v. Workers' Comp. Appeals Bd. (Hemstead)* (2025) 111 Cal.App.5th 1064 [90 Cal.Comp.Cases 499].) This is our decision after remittitur and remand.

Defendant, United Indian Health Services (UIHS) sought reconsideration of the Findings and Order of March 28, 2024, in which a Workers' Compensation Administrative Law Judge (WCJ) found that applicant, while employed on September 24, 2014 as a Medical Assistant III by UIHS, claims to have sustained injury arising out of and in the course of employment to her back, hips, shoulders, left wrist and musculoskeletal system. In pertinent part, the WCJ also found that UIHS is not entitled to sovereign immunity, that the Workers' Compensation Appeals Board (WCAB) has jurisdiction over applicant's claim of injury, and that the issue of waiver of sovereign immunity is moot. Pursuant to these findings, the WCJ ordered that UIHS is not a tribal entity with sovereign immunity, and that the WCAB has jurisdiction.

UIHS contended that the California Rural Indian Health Board (CRIHB) is an Indian Tribe under the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA),¹ and that because it has the full rights of an Indian Tribe under the ISDEAA, CRIHB has sovereign immunity, and that UIHS is entitled to immunity as an arm of CRIHB pursuant to *People v. Miami Nation Enterprises* (2016) 2 Cal.5th 222 [2016 Cal. LEXIS 9626] (“*Miami*”).

On June 4, 2024, the WCAB issued its Opinion and Order Denying Petition for Reconsideration (WCAB Decision), giving great weight to the WCJ’s credibility determinations pursuant to *Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500], and concluding that the facts in this matter were different to those in *Luiz v. Masonite* (2023) 2023 Cal.Wrk.Comp. P.D. LEXIS 209 (“*Luiz*”), and consistent with *Miami*:

[T]he WCJ found that the method of creation of UIHS, control over UIHS by CRIHB, and the financial relationship between the two entities did not weigh in favor of sovereign immunity for UIHS. In other words, here the WCJ found that four of five of the *Miami* factors do not support a finding of sovereign immunity.

Based upon our review of the record, and as set forth in the WCJ’s Report, we are not persuaded that the WCJ abused her fact-finding discretion in applying the five-factor test of *Miami* and in concluding that UIHS is not entitled to sovereign immunity. The WCJ’s approach and ultimate finding against sovereign immunity for UIHS, even though in contrast to *Luiz* on somewhat similar facts, follows the Supreme Court’s directive in *Miami* that each case calls for a fact-specific inquiry into all factors and an overall assessment of whether the entity seeking sovereign immunity has carried its burden of proof by a preponderance of the evidence. (*Miami, supra*, 2 Cal.5th at 248.)

Finally, we also observe that the effect of the WCJ’s decision is to include this applicant in the class of persons who are entitled to statutory workers’ compensation benefits, consistent with the legislative mandate of liberal construction under Labor Code section 3202. (*Moore v. Cleveland Browns* (2022) 2022 Cal. Wrk. Comp. P.D. LEXIS 380, slip op. at p. 27, citing *Travelers Ins. Co. v. Workers’ Compensation Appeals Board (Coakley)* (1967) 68 Cal.2d 7, 13 [32 Cal.Comp.Cases 527].)

(*Hemstead v. United Indian Health Services and Tribal First Insurance*, 2024 Cal.Wrk.Comp. P.D. LEXIS 187, *2-5, revd. by *Hemstead, supra*.)

UIHS sought a writ of review and the Court issued a writ, ultimately holding that, “Under the “arm of the tribe” test set forth in *People v. Miami Nation Enterprises* (2016) 2 Cal.5th 222,

¹ 25 U.S.C §§ 5301 et seq.

234 [211 Cal.Rptr.3d 837, 386 P.3d 357] (*Miami Nation*), United Indian is entitled to sovereign immunity.” (*Hemstead, supra*, 111 Cal.App.5th at p. 1068.) After a discussion of tribal immunity under *Miami* and related cases and the ISDEAA, the Court determined that “[w]hether sovereign immunity applies to an entity is a question of law reviewed de novo. (*Miami Nation, supra*, 2 Cal.5th at p. 250.)” (*Id.* at p. 1073.) In addition, the Court also determined that the de novo standard applied to “interpreting written instruments, except to the extent that the interpretation turns on conflicting extrinsic evidence. (See *Internet Lending Cases, supra*, 53 Cal.App.5th at p. 622; *Campo Band of Mission Indians v. Superior Court* (2006) 137 Cal.App.4th 175, 183 [39 Cal.Rptr.3d 875].)” (*Ibid.*)

The Court then reviewed the facts of this case in relation to the five factors identified in *Miami* used to “determine whether a tribal affiliate should be considered an ‘arm of the tribe’ and therefore entitled to the tribe’s immunity.” (*Id.* at p. 1068-1069, 1073-1077 [Court examines five factors of method of creation, intent, purpose, tribal control, and financial relationship as applied to the facts of this case].)

In sum, although there is no express evidence that United Indian’s participating tribes intended to share their immunity, the remaining factors reflect that United Indian is an arm of the tribes that it serves. Ultimately, because United Indian’s existence, purpose, and operations are central to tribal self-governance, extending tribal immunity to United Indian would further the self-governance and autonomy policies that such immunity is intended to promote. (See *Miami Nation, supra*, 2 Cal.5th at p. 250; *Copper River, supra*, 547 P.3d at p. 1026; Barron, *supra*, 373 F.Supp.3d at pp. 1239–1240; *Skull Valley Health Care, supra*, No. 2:22-cv-00326; cf. *Pink v. Modoc Indian Health Project* (9th Cir. 1998) 157 F.3d 1185, 1187.) For the same reason, denying sovereign immunity to United Indian would impair tribal self-sufficiency by reducing its member tribes’ health care resources. (See, e.g., *Copper River*, at p. 1026; *Matyascik, supra*, No. 2:19-cv-0002-HRH.) Accordingly, we hold that United Indian is entitled to sovereign immunity.

(*Hemstead, supra*, 111 Cal.App.5th at p. 1077.)

Upon holding that UIHS is entitled to sovereign immunity, the Court reversed the WCAB Decision and remanded this matter to the WCAB “for further proceedings consistent with this opinion.” (*Hemstead, supra*, 111 Cal.App.5th at p. 1077.)

Accordingly, we issue the following order rescinding the WCAB Decision and replacing prior findings of fact with new findings consistent with the Court’s opinion.

For the foregoing reasons,

IT IS ORDERED as the Decision after Remittitur of the Workers' Compensation Appeals Board that the Opinion and Order Denying Petition for Reconsideration issued by the Workers' Compensation Appeals Board on June 4, 2024, is **RESCINDED** and **REPLACED** with the following findings of fact and order consistent with *United Indian Health Services, Inc./Tribal First v. Workers' Comp. Appeals Bd. (Hemstead)* (2025) 111 Cal.App.5th 1064 [90 Cal.Comp.Cases 499]:

FINDINGS OF FACT

1. Deborah Hemstead filed an Application for Adjudication of Claim for workers' compensation benefits under California state law, alleging that she sustained injury on September 24, 2014 to her back, hips, shoulders, left wrist, and musculoskeletal system while employed by United Indian Health Services as a Medical Assistant III at Arcata, California.
2. United Indian Health Services is entitled to sovereign immunity as a matter of law under the "arm of the tribe" test (*People v. Miami Nation Enterprises* (2016) 2 Cal.5th 222 [2016 Cal. LEXIS 9626]) pursuant to *United Indian Health Services, Inc./Tribal First v. Workers' Comp. Appeals Bd. (Hemsted)* (2025) 111 Cal.App.5th 1064 [90 Cal.Comp.Cases 499].
3. Because United Indian Health Services is entitled to sovereign immunity as a matter of law, it is therefore immune from suit under state law and the Workers' Compensation Appeals Board lacks jurisdiction to adjudicate any claim for workers' compensation benefits against United Indian Health Services.

ORDER

IT IS HEREBY ORDERED that the Workers' Compensation Appeals Board lacks jurisdiction to adjudicate applicant's workers' compensation claim given that United Indian Health Services is entitled to sovereign immunity from suit under state law (*United Indian Health Services, Inc./Tribal First v. Workers' Comp. Appeals Bd. (Hemsted)* (2025) 111 Cal.App.5th 1064 [90 Cal.Comp.Cases 499]).

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



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.

**DEBORAH HEMSTED
UNITED INDIAN HEALTH SERVICES
ALLIANT INSURANCE SERVICES
PEEBLES KIDDER BERGIN & ROBINSON LLP
LIEBERT CASSIDY WHITMORE**

AJF/mc

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