

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

JESUS GONZALEZ, *Applicant*

vs.

**WESLAR, INC.; SOUTHEAST PERSONNEL LEASING; STATE NATIONAL
INSURANCE COMPANY, administered by PACKARD CLAIMS, *Defendants***

**Adjudication Number: ADJ11162420
Los Angeles District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

Applicant, Jesus Gonzalez, petitioned for reconsideration of the Findings of Fact and Order issued by the workers' compensation administrative law judge (WCJ) in this matter on September 8, 2021. In that decision, the WCJ found that Dr. Bertoldi's request for authorization of treatment for applicant was invalid as he was not shown to be within the employer's medical provider network (MPN), that there was no valid primary treating physician for applicant and that applicant needed to select such treater from the defendant's MPN per California Code of Regulations 9767.6(e).

The WCJ further found that the applicant did not sustain his burden of showing he was entitled to re-admission or evaluation for re-admission to Casa Colina at Padua Village, Apple Valley.

Applicant contends in his petition for reconsideration that the WCJ erred by failing to find that applicant was entitled to continued treatment at Casa Colina, and that the defendant has failed to show a change in medical circumstance thus inpatient care should be restored.

Applicant further contends that the defendant's violated Labor Code Section 4610(i)(4)(C) and California Code of Regulations 10109 by failing to obtain an agreed upon care plan for applicant prior to discontinuing his medical care at Casa Colina and investigate applicant's current condition, amounting to a denial of treatment, thus entitling applicant to self-procure treatment under *Knight v. UPS (2006) 71 Cal. Comp. Cases 1423.*

The WCJ issued a report in which he recommended that his September 8, 2021 findings and order be reversed and made several further recommendations, including the use of mediation services through the Appeals Board while the matter was under reconsideration.

We granted reconsideration to further study the factual and legal issues presented.

Subsequently, the parties participated in a commissioners' settlement conference at our request and agreed to resolve this matter by Compromise and Release. On February 16, 2023, the Compromise and Release was filed by the parties.

In order to expedite review and approval of the Compromise and Release, we will rescind the September 8, 2021 Findings and Order and remand this matter to the WCJ to consider the Compromise and Release. The WCJ may conduct such further proceedings as he deems appropriate.

Our decision should not be construed as a ruling on the merits of the petition for reconsideration. If the WCJ does not approve the settlement, he can issue an order reinstating his decision and any aggrieved party may timely seek reconsideration from the reinstated decision.

Finally, we commend the parties for successfully resolving this matter without the need of further litigation.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order issued in this matter on September 8, 2021, be **RESCINDED**, and that this matter be **REMANDED** to the workers' compensation administrative law judge to consider the Compromise and Release and for such further proceedings as he deems appropriate.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 7, 2023

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

**JESUS GONZALEZ
SOLOV AND TEITELL
CBE LAW
TAPPIN & ASSOCIATES**

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