

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

JIMMY MARTINEZ, *Applicant*

vs.

WARNER BROTHERS STUDIOS, permissibly self-insured, *Defendants*

**Adjudication Numbers: ADJ10033171 ADJ8053547 ADJ8619387
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION FOR RECONSIDERATION**

Lien claimant, the Prescription Center, seeks reconsideration of the July 23, 2021 Findings and Orders wherein the workers' compensation administrative law judge (WCJ) found that the treatment costs incurred by Dr. Burstein and the Prescription Center are not reimbursable because applicant did not sustain an industrial injury to his gastrointestinal system. The WCJ also found that the medical-legal costs incurred by Dr. Burstein are not allowable.

Lien claimant contends that it is entitled to recover on its lien because lien claimant has established by the preponderance of the evidence that applicant sustained an industrial injury in the form of stomach problems and the treatment it provided was reasonable and necessary.

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

We have considered the Petition for Reconsideration, 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 reconsideration.

Lien claimant provided prescription medications for a denied body part. At a lien trial involving numerous lien claimants, the Prescription Center offered two exhibits as evidence. Exhibit 1 is the lien claimant's bills and Exhibit 2 is a Bill Review. Both exhibits were admitted into evidence.

An employer must provide an injured worker with medical treatment to cure or relieve the injured worker from the effects of an industrial injury. (Lab. Code, §4600.)

A lien for medical treatment is allowable only when the treatment rendered is reasonably required to cure or relieve an injured worker from the effects of an industrial injury. (Lab. Code, §§ 4600(a), 4903(b).) A defendant will not be liable for a medical treatment where there is no industrial injury. (*Kunz v. Patterson Floor Coverings* (2002) 67 Cal.Comp.Cases 1588, 1593 (en banc).) Therefore, where a lien claimant, rather than the injured worker, litigates the issue of entitlement to payment for industrially-related medical treatment, the lien claimant stands in the shoes of the injured worker and the lien claimant must establish injury by preponderance of evidence. (*Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Martin)* (1985) 39 Cal.3d 57, 67 [50 Cal.Comp.Cases 411]; *Kunz, supra*, 67 Cal.Comp.CasAyes at p. 1592.)

If a lien claimant establishes that treatment was provided for an industrial injury, the lien claimant must also establish that the treatment it provided was reasonable and necessary to cure or relieve the applicant from the effects of their industrial injury. (*Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1121 (Appeals Board en banc).)

In this case, lien claimant had the burden of establishing that the applicant sustained an injury to his gastrointestinal system by preponderance of the evidence. In its Petition, despite asserting that it established applicant sustained an industrial injury to the gastrointestinal system by the preponderance of the evidence, lien claimant did not cite to evidence on the issue of industrial causation. If lien claimant had established that applicant sustained an industrial injury to the gastrointestinal system, lien claimant would still need to show that its charges were reasonable and necessary to treat the industrial injury. Bills and bill review documents may help to show that charges were reasonable but cannot show that the treatment provided was necessary to cure or relieve applicant from the effects of an industrial injury. Lien claimant did not meet its burden of showing that it provided necessary treatment to treat an industrial injury and therefore, we will deny reconsideration.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration of the July 23, 2021 Findings and Orders is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 12, 2021

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

**COLLECTIVE RESOURCES
JIMMY MARTINEZ
LAW OFFICE OF PATRICK BRAULT**

MWH/oo

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