

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

DEBRA GLADDEN, *Applicant*

vs.

CALIFORNIA STATE UNIVERSITY NORTHRIDGE, legally uninsured, *Defendants*

**Adjudication Numbers: ADJ2130320 (LAO 0750263) ADJ3271900 (LAO 0750264)
Los Angeles District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will deny reconsideration.

We also note that Labor Code section 4060(b) states that "Neither the employer nor the employee shall be liable for any comprehensive medical-legal examination performed by other than the treating physician except as provided in this section." Section 4060(a) provides that "[t]his section shall apply to disputes over the compensability of any injury. This section shall not apply where injury to any part or parts of the body is accepted as compensable by the employer." In this case, section 4060 is not applicable because some body parts were accepted.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ MARGUERITE SWEENEY, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 19, 2022

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

**AM LIEN SOLUTIONS
AZADEH RAHIMI PH D**

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

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

I

INTRODUCTION

Lien Claimant, Dr. Azadeh Rahimi, by and through their hearing representative, has filed a timely Petition for Reconsideration challenging the Findings and Order dated January 28, 2022 in which it was found the lien claimant take nothing.

II

FACTS

Applicant at the age of 47, sustained an injury to her low back, left knee, neck and bilateral upper extremities during the period of January 1, 1998 through February 20, 1998 while employed as a custodian with California State University, at Northridge, California. Applicant's case was resolved by way of Compromise and Release on March 15, 2012.

On June 21, 2013, the matter proceeded to a lien conference. Dr. Rhaimi representative failed to appear. A Notice of Intent to Dismiss Dr. Rahimi lien issued. Having received no objection to the Notice of Intent to Dismiss, an Order Dismissing with a self-destruct clause was issued on November 12, 2013. Lien claimant timely objected on November 22, 2022. It was determined the lien representative having miscalendered the hearing amounted to good.

The matter proceeded to trial on Dr. Rahimi's lien on December 21, 2021. The Findings and Order was issued on lien claimant's representative on January 28, 2022, and with a second copy on the lien claimant on February 4, 2022. It was determined Dr. Rahimi's reports were not medical legal reports, nor did Dr. Rahimi provide treatment, thus it was ordered Dr. Rahimi take nothing. It is from this decision lien claimant has filed their Petition for Reconsideration on February 18, 2022.

III

DISCUSSION

It is recommended the Petition for Reconsideration be denied. Pursuant to Title 8 of California Code of Regulations section 9793 (c), comprehensive medical-legal evaluation' means

an evaluation, which includes an examination of an employee, and which (A) results in the preparation of a narrative medical report prepared and attested to in accordance with Section 4628 of the Labor Code, any applicable procedures promulgated under Section 139.2 of the Labor Code, and the requirements of Section 10682 and (B) is either: (1) performed by a Qualified Medical Evaluator pursuant to subdivision (h) of Section 139.2 of the Labor Code, or (2) performed by a ***Qualified Medical Evaluator, Agreed Medical Evaluator, or the primary treating physician*** for the purpose of proving or disproving a contested claim, and which meets the requirements of paragraphs (1) through (5), inclusive, of subdivision (h).

Labor Code Section 4064(d) provides that "the employer shall not be liable for the cost of any comprehensive medical evaluations obtained by the employee other than those authorized pursuant to Sections 4060, 4061, and 4062. However, no party is prohibited from obtaining any medical evaluation or consultation at the party's own expense."

Dr. Rahimi's reports are not medical legal reports. Dr. Rahimi examined the applicant on two occasions, issued two reports and provided no treatment. Dr. Rahimi's reports were not obtained in accordance with Labor Code section 4060, 4061 or 4062. Dr. Rahimi was not the primary treating physician nor was he an AME or PQME. There was no evidence showing Dr. Rahimi's reports were ever reviewed or commented upon by the PTP, Dr. Farsar, or the AME. They were never used to prove or disprove a claim.

Consultation reports and secondary physician reports to the primary treating physician are not reimbursable unless a primary treating physician PR-2 report, P&S report, psych reports requested by the WCAB, or the Administrative director, other than a medical legal report. Title 8 of California Code of Regulations section 9789.14 (2)(3)(b)(1).

Labor Code section 4605 provides that the applicant may self-procure reports by a "consulting or attending physician," at their own expense, but Labor Code section 4605 may not be used to supplant the medical-legal process. Thus, Dr. Rahimi is not entitled to reimbursement for services provided.

IV

RECOMMENDATION

It is recommended that the Petition for Reconsideration be denied.

DATE: 02/25/2022

Respectfully submitted,

Penny Barbosa
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE