

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

NOEL RECINOS, *Applicant*

vs.

**WEBTRANS LOGISTICS, INC.;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ10339335 (MF); ADJ10339334;
ADJ10815375; ADJ11145219
Long Beach District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the Report and the Opinion on Decision 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 and the Opinion on Decision, both of which we adopt and incorporate, we will grant reconsideration, amend the WCJ's decision as recommended in the report, and otherwise affirm the February 23, 2022 Joint Findings and Award.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the February 23, 2022 Joint Findings and Award is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the February 23, 2022 Joint Findings and Award is **AFFIRMED, EXCEPT** that it is **AMENDED** as follows:

FINDINGS OF FACT

* * *

5. The charges of lien claimant Western Pacific Psychological Network are reasonably valued by the Official Medical Fee Schedule at \$1,555.79, payable by defendant.

* * *

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ DEIDRA E. LOWE, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 20, 2022

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

**ASSOCIATED LIEN SERVICES
STATE COMPENSATION INSURANCE FUND**

PAG/abs

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

**JOINT REPORT AND RECOMMENDATION
ON PETITION FOR RECOMMENDATION**

I. INTRODUCTION

1. Applicant, Noel Recinos, born [], while employed as a warehouse worker, at Carson, California, by Webtrans Logistics, Inc., then insured by State Compensation Insurance Fund, alleged injury arising out of and in the course of employment as follows:

In Cas No. 10339335 on January 1, 2013, to his back;

In Case No. 10339334 during the period November 20, 2013, through November 18, 2015, to his back, hand fingers, and shoulder;

In Case No. ADJ11145129 on November 1, 2013, to his hand;

In Case No. 10815375 on November 20, 2013, to his back, knee, and leg.

II. CONTENTIONS

Petitioner defendant State Compensation Insurance Fund contends that lien claimant Western Pacific Psychological Network failed to meet t the burden of proof of injury, necessity of treatment, request for authority for treatment, entitlement to interest and penalty.

III. FACTS

Petitioner raised injury AOE/COE as to the claims made herein, having denied the claims (Defendant's Exhibits F through I).

On 02/23/2022 the undersigned found that applicant did not suffer the back injury alleged in ADJ10330335 or the hand alleged in ADJ11145129 or the back, knee and leg injury alleged in ADJ10815375.

However, a cumulative trauma injury to the lumbar spine was found in ADJ10339334 based on the opinion of the agreed medical examiner Paul E. Wakim, D.O. (report of 08/16/2016, Lien Claimant's Exhibit 18).

Since the CT claim had been denied, applicant sought and received self-procured treatment from Industrial Healthcare Physicians Medical Group with Jose La Llana, M.D.

La Llana referred applicant to lien claimant Western Pacific Psychological Network (Lien Claimant's Exhibit 14, report of Dr. La Llana 08/08/2016).

Thais Doyle, Ph.D. from Western reported on 07/25/2016 that applicant suffered psychological distress caused by more than 51% by his physical CT injury (Lien Claimant's Exhibit 14).

No evidence to the contrary was introduced regarding causation of a psychiatric injury as a result of the orthopedic CT.

IV. DISCUSSION

V.

Burden of Proof of Injury AOE/COE

Lien claimant entered into evidence the AME report of Dr. Wakim finding that applicant suffered a cumulative trauma injury to his lumbar spine. No medical opinion to the contrary was proffered in evidence. Dr. Wakim's opinion in light of his status as agreed medical examiner and the lack of any rebuttal medical evidence fully supports the finding of injury AOE/COE in ADJ10339334.

Lien claimant thus met the burden of proof.

Burden of Proof of Necessity of Treatment

The referral by the self-procured treating physician to a secondary treating physician for psychological care resulted in the reporting of Dr. Doyle (Lien Claimant's Exhibit 13, report of 07/25/2016) finding psychiatric injury as a result of the spine injury and a need for psychological treatment.

This reporting and the absence of any evidence to the contrary regarding causation of a psychiatric injury as a result of the orthopedic CT supported the psychiatric injury claim

Lien claimant thus met the burden of proof.

Burden of Proof of Request for Authorization

As petitioner points out, the claims were all denied. The treatment was self-procured and not within petitioner's control within a medical provider network or otherwise.

Where injury is denied the RFA to UR to IMR process is not applicable.

Further, while petitioner notes that the primary treating physician issued only one RFA (Lien Claimant's Exhibit 9, 02/10/2016) seeking only a psychological consult, no mention is made of Lien Claimant's Exhibit 8, the 08/19/2016 RFA from DR. Doyle requesting psychological treatment.

To the extent any RFA might have been required, lien claimant met the burden of proving one was issued.

Penalty and Interest

The statutory penalty and interest are part of the Labor Code Section 4603.2(b)(2) payment provisions. There is no penalty imposed under Section 5814.

Petitioner asserts that no Section 4603.2 penalty and interest is due as long as the carrier issues a timely explanation of review.

Lien Claimant's Exhibit 3 is the billing statement with proof of service dated 06/06/2017.

Defendant's Exhibits A and B are explanations of review pre-dating the billings.

Therefore in the absence of a showing of a failure to timely issued the EORs, the statutory penalty and interest provisions of Section 4603/2(b)(2) were not triggered.

Finding of Fact No. 5 should be amended to read: "The charges of lien claimant Western Pacific Psychological Network are reasonably valued by the Official Medical Fee Schedule at \$1,555.79, payable by defendant."

Lien claimant did not meet the burden of proving entitlement to penalty or interest.

V. RECOMMENDATION

Based on the foregoing the undersigned WCALJ recommends that the petition for reconsideration be granted for the purpose of amending Finding of Fact No. 5 to read: "The charges of lien claimant Western Pacific Psychological Network are reasonably valued by the Official Medical Fee Schedule at \$1,555.79, payable by defendant."

In all other respects the undersigned recommends that the petition for reconsideration be denied.

DATED AT OXNARD, CALIFORNIA

DATE: 03/30/2022

WILLIAM M. CARERO
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

OPINION ON DECISION

INJURY AOE / COE

ADJ10339335

In the absence of evidence of a specific injury of 01/01/2013, and the timely denial of said injury by defendant (Defendant's Exhibit G) it is found that applicant did not suffer an industrial injury to his back on that date.

ADJ10339334

Based on the opinion of agreed medical examiner Paul E. Wakim, D.O. of 08/16/2016 (Lien Claimant's Exhibit 18) it is found that applicant suffered a cumulative trauma injury to his lumbar spine from 11/20/2013 through 11/18/2015 as alleged.

ADJ11145219

In the absence of evidence of a specific injury of 11/01/2013, and the timely denial of said injury by defendant (Defendant's Exhibit I), it is found that applicant did not suffer an industrial injury to his hand on that date.

ADJ10815375

In the absence of evidence of a specific injury of 11/20/2013, and the timely denial of said injury by defendant (Defendant's Exhibit H), it is found that applicant did not suffer an industrial injury to his back, knee or leg on that date.

PARTS OF BODY

The CT claim was denied at the time applicant was receiving self-procured treatment from Industrial Healthcare Physicians Medical Group with Jose La Llana, M.D. Dr. La Llana referred applicant to lien claimant Western Pacific Psychological Network (Lien Claimant's Exhibit 14, report of Dr. La Llana 08/08/2016).

Thais Doyle, Ph.D. from Western reported on 07/25/2016 that applicant suffered psychological distress caused by more than 51% by his physical CT injury (Lien Claimant's Exhibit 14).

There is no evidence to the contrary.

Accordingly it is found that applicant suffered psychological injury as a result of the cumulative trauma from 11/20/2013 through 11/13/2015 (ADJ10339334).

NECESSITY OF SERVICES

Based on the opinion of Dr. Doyle, and in the absence of any contrary medical opinion as to need for psychiatric testing and treatment, it is found that applicant reasonably required the services of lien claimant Western Psychological Network to cure or relieve from the effects of the industrial CT injury.

REASONABLENESS OF CHARGES

Lien Claimant's Exhibit 4 is the statement of the Official Medical Fee Schedule amounts allowable for the services of Western Psychological.

Defendant offered no evidence to the contrary.

Accordingly it is found that the reasonable value of the self-procured services is \$1,555.79.

This amount is payable together with statutory penalty and with statutory interest running from the date of receipt of lien claimant's invoice by defendant until the date payment is made.

DATED AT OXNARD, CALIFORNIA

DATE: 02/23/2022

WILLIAM M. CARERO
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE