

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

GUILLERMO HODGSON, *Applicant*

vs.

**DIMENSION DEVELOPMENT TWO, LLC., dba COURTYARD BY MARRIOTT;
CYPRESS INSURANCE COMPANY, administered by BERKSHIRE HATHAWAY
HOMESTATE COMPANIES, *Defendants***

**Adjudication Numbers: ADJ10066454, ADJ9648984
Los Angeles District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Lien claimant, Monrovia Memorial Hospital, seeks reconsideration of the Findings and Award (F&A) issued by the workers' compensation administrative law judge (WCJ) on April 12, 2024.

In the F&A, the WCJ found, in pertinent part, that (1) applicant sustained injury arising out of and in the course of his employment (AOC/COE) to his back and shoulders; (2) there was a request for authorization for his surgery to be performed at Monrovia Memorial Hospital (Monrovia), a long-term care facility; (3) the services provided by Monrovia were reasonable and medically necessary as certified by Defendant's utilization review; (4) the services provided by Monrovia were not subject to the request for second review procedures for payments made by Defendant contained in CCR §9792.5.5, as lien claimant is a long-term care facility and is exempt from that procedure pursuant to CCR §9789.22(k)(5); (5) the reasonable cost basis for the services provided by Monrovia is \$15,884.79; (6) lien claimant Monrovia Memorial Hospital shall be paid \$15,884.79, less amounts previously paid by defendant, in full satisfaction of the lien claim; and, (7) pursuant to Labor Code §4603.2(b)(2), no penalty and interest is owed to Monrovia Memorial Hospital on the amounts Awarded herein. (4/12/24 F&A, pp. 1-2.) The WCJ awarded

reimbursement for medical treatment costs as set forth in Finding 6, payable to lien claimant. (*Id.* at p. 2.)

We received an Answer from defendant Cypress Insurance Company.

The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations of the Petition and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, the Petition is untimely and must be dismissed.

There are 25 days allowed within which to file a petition for reconsideration from a “final” decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10940(a), 10615(b).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers’ Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com.* (*Hinojoza*) (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

The petition in this matter was filed on May 13, 2024. This was more than 25 days after the service of the WCJ’s April 12, 2024 decision and beyond whatever extension of time, if any, the petitioner might have been entitled to under WCAB Rule 10600. Therefore, the Petition for Reconsideration is untimely and subject to dismissal.

If the petition had been timely, we would have denied it on the merits for the reasons stated in the WCJ’s report.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 28, 2024

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

**MONROVIA MEMORIAL HOSPITAL
INNOVATIVE MEDICAL MANAGEMENT
HEFLEY LAW, APC**

MB/ara

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