

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

IVY PANGILINAN, *Applicant*

vs.

**NORTHRIDGE HOSPITAL MEDICAL CENTER (DIGNITY HEALTH),
permissibly self-insured, administered by SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ7862936
Van Nuys District Office**

**OPINION AND ORDERS
DISMISSING PETITION FOR
RECONSIDERATION,
DISMISSING PETITION
FOR REMOVAL
AND DISMISSING
PETITIONS FOR DISQUALIFICATION**

We have considered the allegations of applicant's (pro per) 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 discussed below, we will dismiss the Petition as one seeking reconsideration and as one seeking removal.

Applicant also filed two Petitions for Disqualification of the WCJ, in response to which the WCJ issued a separate report noting that applicant's case has been reassigned to another WCJ. These Petitions will therefore be dismissed as moot.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a "threshold" issue that is fundamental to the claim for benefits. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers'

compensation proceedings, are not considered “final” orders. (*Id.* at p. 1075 [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

Here, the WCJ’s decision solely resolves an intermediate procedural or evidentiary issue or issues. The decision does not determine any substantive right or liability and does not determine a threshold issue. Accordingly, it is not a “final” decision and the petition will be dismissed to the extent it seeks reconsideration.

We will also dismiss the petition as one seeking removal. There are 25 days allowed within which to file a petition for removal from a “non-final” decision that has been served by mail upon an address in California. (Cal. Code Regs., tit. 8, former § 10843(a), now § 10955(a); former § 10507(a)(1), now § 10605(a)(1) (eff. Jan. 1, 2020).) 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, former § 10508, now § 10600 (eff. Jan. 1, 2020).) To be timely, however, a petition for removal 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, former § 10845(a), now § 10940(a); former § 10392(a), now § 10615(b) (eff. Jan. 1, 2020).)

The Petition in this matter was filed on April 7, 2021. This was more than 25 days after the service of the WCJ’s March 7, 2019 decision and beyond whatever extension of time, if any, the petitioner might have been entitled to under WCAB Rule 10600. Additionally, applicant’s Petition is subject to dismissal for not being verified as required. (Cal. Code Regs., tit. 8, former § 10843(b), now § 10955(b); former § 10450(e), now § 10510(d) (eff. Jan. 1, 2020); see also *Torres v. Contra Costa Schools Ins. Group* (2014) 79 Cal.Comp.Cases 1181 (Significant Panel Decision); *Lucena v. Diablo Auto Body* (2000) 65 Cal.Comp.Cases 1425 (Significant Panel Decision).)

Applicant sought disqualification of the WCJ assigned to her case. The record of proceedings reflects that applicant’s case has already been reassigned to another WCJ. Therefore, her Petitions for Disqualification will be dismissed as moot.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration and the Petition for Removal are **DISMISSED**.

IT IS FURTHER ORDERED that the Petitions for Disqualification are **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 4, 2021

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

**IVY PANGILINAN
LUNA LEVERING & HOLMES**

AI/pc

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