

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

EDGAR GRAZZIANI, *Applicant*

vs.

LOS ANGELES COUNTY METROPOLITAN TRANSIT AUTHORITY, permissibly self-insured, TRAVELERS INDEMNITY COMPANY, *Defendants*

**Adjudication Numbers: ADJ4061586 (MON 0302355) (MF), ADJ2051354 (MON 0309779)
Van Nuys 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, and for the reasons stated below, we will deny reconsideration.

While "[a] letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail" (Evid. Code, § 641), the one-page treatment reports that are included in lien claimant's Exhibit 2 are not letters that were "correctly addressed" to anyone and there's no proof of service or proof of mailing of any kind in the record. (8 Cal. Code Regs., tit. 8, §§ 10625, 10635.)

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER



MARGUERITE SWEENEY, COMMISSIONER
PARTICIPATING NOT SIGNING

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 9, 2022

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

**AZADEH RAHIMI PH.D.
DURDEN AND ASSOCIATES, LLC
ALTMAN & BLITSTEIN
TENNHOUSE, MINASSIAN & ADHAM**

PAG/ara

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

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

I **INTRODUCTION**

The undersigned issued his Opinion on Decision and Findings & Award relating to the lien of Azadeh Rahimi, Ph.D on 6/14/2022. Lien claimant has filed a timely, verified, Petition for Reconsideration on 7/11/2022.

Lien claimant contends that:

1. The Appeals Board acted without or in excess of its power,
2. The evidence does not justify the Findings of Fact,
3. The Findings of Fact do not support the Order, Decision or Award.

In reality, lien claimant is contending that the evidence does not support the undersigned's findings that lien claimant was entitled to reimbursement for its initial comprehensive evaluation/treatment report at the stipulated reimbursement rate (plus penalty and interest), but that all subsequent treatment/reporting was disallowed. The undersigned disagrees with lien claimant's contentions.

II **FACTS**

Applicant, Edgar Grazziani, born [], was employed by the Los Angeles Metropolitan Transit Authority as a diesel mechanic from 5/12/80 through 3/20/03.

Applicant filed a specific injury claim relating to a 5/22/00 (ADJ2051354) injury that the parties to the lien trial herein stipulated resulted in compensable injuries to applicant's neck, lumbar spine, psyche, sleep and in the form of chronic pain, with an unspecified "internal" component denied. This claim eventually resolved by way of an indemnity only compromise and release with an order approving issuing on 5/6/20 for \$55,000.00 with further medical treatment left open relating to the neck, back, and psyche. The employer was insured by Travelers Indemnity Company relating to his claim.

Applicant also filed a continuous trauma injury claim encompassing the period from 3/15/02 through 3/15/03 (ADJ4061586) that the parties to the lien trial herein stipulated resulted in compensable injuries to applicant's neck, lumbar spine, and psyche, with an unspecific "internal" component denied. This claim eventually resolved by way of an indemnity only compromise and release with an order approving issuing on 1/14/17 for \$217,295.00 with further medical treatment left open relating to the neck, back, psyche, sleep and chronic pain. The employer was permissibly self-insured relating to this claim

The matter returned to the trial calendar before the undersigned on 4/25/22 relating to the lien of Azadeh Rahimi, Ph.D. in the amount of \$36,650.00. Defendants had paid nothing against the lien at the time of trial.

As noted above, the undersigned found that lien claimant was entitled to reimbursement for his initial comprehensive evaluation/treatment report at the stipulated value of \$2,061.46 (with penalties and interest), but that all subsequent treatment/reporting was disallowed. It is from the latter treatment/reporting disallowance that lien claimant has filed for reconsideration.

III **DISCUSSION**

DID THE UNDERSIGNED COMMIT ERR IN DISALLOWING REIMBURSEMENT FOR ALL TREATMENT SESSIONS AND REPORTS?

No. At trial the parties stipulated that if the initial evaluation/testing/report were found to be entitled to reimbursement, the value would be \$2,061.46. Over 120 treatment sessions were subsequently provided from 12/18/09 through 7/11/16.

Defendant contended that none of the services were reasonable and necessary, that lien claimant issued no requests for authorization (RFA) for most of the treatment, and that even when RFA's issued, there was no evidence that they were ever served on defendants.

The parties stipulated that applicant sustained injury to his psyche due to both the specific and continuous trauma injuries herein. The only narrative report in evidence is an initial comprehensive report from Dr. Rahimi.

Dr. Rahimi evaluated the applicant for the first time on 12/18/09. As noted above, he generated a lengthy initial report, reviewing extensive prior medicals, as well as performing psyche testing. The report is dated 1/11/10 and was addressed only to Dr. Lavi and applicant's attorney (Lien Claimant R1).

Subsequently, Dr. Rahimi generated over 120 single page treatment "reports" during the period from 12/18/09 through 7/11/16 (Lien Claimant Exhibit R2). There are no proofs of service or RFAs associated with any of those reports. Four RFAs were introduced into evidence by lien claimant at trial. Two in 2013, one in 2015, and one in 2016 (Lien Claimant Exhibits R3-R6). The RFAs are somewhat contradictory requesting treatment sessions one time a week for six months, but also requesting only "10-12 sessions". None has a proof of service, or fax confirmation, to show that they were ever sent to, or received by, defendants.

In July 2016 lien claimant did serve defendants with an itemized billing, and the original narrative report from over six years earlier (Lien Claimant Exhibit R7-R8). None of the 120 single page treatment reports, or any RFAs, were served. Lien claimant contends in its petition that its proofs of service show that the 120+ single page "reports" were served on defendant. The undersigned disagrees. Lien claimant Exhibit L7 is a proof of service for a lien and an initial report related to that lien. The undersigned allowed reimbursement related to this single date of service/report. Lien claimant Exhibit L8, is a proof of service of itemized billing and "Report for Treatment Lien" from 7/16/16. There is nothing in the proof of service to establish what a "report for treatment lien" identifies. "Report" is singular, not plural. There is no specific identification of treatment reports by date, or even identification of a start and end date for purported multiple reports. No testimony

was presented by lien claimant at trial to clarify the document. Lien claimant had the burden of proof to establish that it had served all relevant documents on defendant. It failed to do so.

Based on the foregoing, the undersigned found that lien claimant was entitled to reimbursement for the initial treatment comprehensive report at the stipulated reasonable value of \$2,061.46. Charges associated with all subsequent treatment/reporting was disallowed due to failure to properly request/serve RFAs for any of the treatment provided, and for failure to prove that the single page “reports” were actually served on defendant.

The undersigned does not believe that he committed err in making those findings.

IV
RECOMMENDATION

It is respectfully recommended that lien claimant’s Petition for Reconsideration be denied.

DATED: 7/13/2022

S. MICHAEL COLE
WORKERS’ COMPENSATION JUDGE