

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

**JAMIE BLAIR *Applicant***

**vs.**

**COAST COMMUNITY COLLEGE DISTRICT, permissibly self-insured,  
administered by KEENAN AND ASSOCIATES, *Defendants***

**Adjudication Numbers: ADJ12973118 ADJ12972782 ADJ12973110  
Marina Del Rey District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

The Appeals Board previously granted reconsideration to further study the factual and legal issues in this case.<sup>1</sup> This is our decision after reconsideration.

Applicant seeks reconsideration of the May 19, 2022 Findings and Order wherein the workers' compensation administrative law judge (WCJ) found that applicant sustained three injuries and that none of the three injuries caused permanent disability, temporary disability, or a need for further medical treatment.

Applicant contends that the WCJ finding that applicant does not require further medical treatment is not supported by substantial medical evidence. Applicant also argues that the Opinion on Decision issued together with the May 19, 2022 Findings and Order did not provide reasons for the determination that applicant does not require further medical care.

Defendant filed an answer. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied. We have considered the Petition for Reconsideration and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, as our decision after reconsideration, we will amend the Findings and Order to find that applicant is entitled to future medical care.

An award of medical care "reasonably required to cure or relieve the injured employee of the effects of his or her injury" is not an award of a specific treatment. Labor Code section 4600<sup>2</sup>

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<sup>1</sup> Commissioner Sweeney, who was a panel member at the time reconsideration was granted, has retired and has been replaced by another panelist.

<sup>2</sup> All further statutory references are to the Labor Code unless otherwise noted.

requires the employer to provide reasonable medical treatment to cure or relieve from the effects of an industrial injury. (Lab. Code, § 4600(a).)

Whether a specific treatment is reasonable and necessary is typically determined through utilization review (UR). Employers are required to establish a UR process for treatment requests received from physicians. (Lab. Code, § 4610; *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd. (Sandhagen)* (2008) 44 Cal.4th 230, 236.) In *Dubon v. World Restoration, Inc.* (2014) 79 Cal.Comp.Cases 1298, 1299 (Appeals Bd. en banc) (*Dubon II*), the Appeals Board held that if a UR decision is untimely, the UR decision is invalid and not subject to independent medical review (IMR). The *Dubon II* decision further held that the Appeals Board has jurisdiction to determine whether a UR decision is timely. (*Id.*) If a UR decision is untimely, the determination of medical necessity for the treatment requested may be made by the Appeals Board. (*Id.* at p. 1300.) However, “where a UR decision is timely, IMR is the sole vehicle for reviewing the UR physician’s expert opinion regarding the medical necessity of a proposed treatment.” (*Id.* at pp. 1310-1311; see also Lab. Code, §§ 4062(b), 4610.5.)

In this case, applicant’s primary treating physician found that there is no treatment needed at this time but, “if the patient is exposed again to mold and she has flare up of various symptoms,” she may require additional doctor visits. (Exh.1, August 12, 2020, Ronald Zlotolow M.D., Primary Treating Physician Report, p. 5.) In addition, the panel qualified medical evaluator recommended applicant be provided with an air purifier on an industrial basis.<sup>3</sup> (Exh. A, June 10, 2020, Marc Meth, M.D., Panel Qualified Medical Evaluation, p. 11.) These reports, taken together, establish that applicant may require future medical care as a result of her industrial injuries. Defendant is required to provide medical treatment that complies with Section 4600. Applicant need not establish that she will certainly need future medical care for an award of future medical care to issue. It is sufficient that there is substantial medical evidence that future medical care may be needed.

Therefore, we will amend the Findings and Order to find that applicant is entitled to future medical care to cure or relieve her from the effects of the industrial injuries.

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<sup>3</sup> Although this is a recommendation for a specific medical treatment, it is also a comment on applicant’s need for future medical treatment. (Cal. Code Regs., tit. 8, § 35.5(g)(2).)

For the foregoing reasons,

**IT IS ORDERED**, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the May 19, 2022 Joint Findings and Order is **AFFIRMED, EXCEPT** Finding of Fact No. 4 in ADJ12972782, Finding of Fact No. 4 in ADJ12973110, Finding of Fact No. 4 in ADJ12973118, and the Order is **AMENDED** and an Award is **ADDED** as follows:

### **JOINT FINDINGS AND ORDER**

**I. ADJ12972782(MF)**

4. Applicant is entitled to further medical care to cure or relive from the effects of this industrial injury.

**II. ADJ12973110**

4. Applicant is entitled to further medical care to cure or relive from the effects of this industrial injury.

**III. ADJ12973118**

4. Applicant is entitled to further medical care to cure or relive from the effects of this industrial injury.

### **ORDER**

1. **IT IS ORDERED THAT** Applicant take nothing on her claims for temporary and permanent disability.

**AWARD**

Award is made in favor of JAMIE BLAIR and against COAST COMMUNITY COLLEGE DISTRICT, permissibly self-insured, administered by KEENAN AND ASSOCIATES as follows:

All further medical treatment reasonably required to cure or relieve from the effects of the injury herein.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

I CONCUR,

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**May 17, 2023**

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

**JAMIE BLAIR  
LAW OFFICES OF FRED FONG  
BENJUMEA AND ASSOCIATES**

**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*