

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

**LINDA BECERRA, *Applicant***

**vs.**

**CONIFER HEALTH SOLUTIONS, PERMISSIBLY SELF-INSURED,  
ADMINISTERED BY SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ8185944  
Marina Del Rey District Office**

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

Defendant Conifer Health Solutions seeks reconsideration of our September 18, 2023 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration,<sup>1</sup> wherein we determined, in relevant part, that applicant had sustained 92 percent permanent partial disability, and that the State Average Weekly Wage (SAWW) adjustments required by Labor Code<sup>2</sup> section 4659(c) were to commence January 1, 2014.

Defendant contends that pursuant to *Baker v. Worker's Comp. Appeals Bd.* (2011) 52 Cal.4th 434 [76 Cal.Comp.Cases 701] (*Baker*), SAWW adjustments are to begin on the January 1 following "the date on which partial permanent disability benefits become exhausted in the case of life pension payments." (*Id.* at p. 439.) Defendant avers that permanent disability benefits in this matter commence November 23, 2013, and will extend for 785 weeks, ending on approximately December 10, 2028. (Petition for Reconsideration, p. 2:25.) Accordingly, applicant's life pension benefits will not commence until 2028. Defendant therefore avers error in

---

<sup>1</sup> Commissioner Dodd, who was previously a member of this panel, is currently unavailable. Another panelist has been substituted in her place.

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

our determination that the SAWW adjustment of section 4659(c) “shall commence January 1, 2014.” (Finding of Fact No. 9.)

We agree. Section 4659(c) provides for SAWW adjustments to the award of both life pension benefits (section 4659(a)) and permanent total disability benefits (section 4659(b)). Here, the award of 92 percent disability will be followed by a life pension, and the applicable SAWW adjustment will commence on the January 1 following the date on which partial permanent disability benefits are exhausted. Accordingly, we will grant defendant’s Petition, and affirm our September 18, 2023 Decision After Reconsideration, except that we will amend Finding of Fact No. 10 to reflect that SAWW adjustment pursuant to Labor Code section 4659(c) shall commence on the January 1 following the date on which partial permanent disability benefits are exhausted.

For the foregoing reasons,

**IT IS ORDERED** that reconsideration of the Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration, issued on September 18, 2023, is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration issued on September 18, 2023 is **AFFIRMED**, except that it is **AMENDED** as follows:

**FINDINGS OF FACT**

...

10. SAWW adjustments pursuant to Labor Code section 4659(c) shall commence on the January 1 following the date on which partial permanent disability benefits are exhausted.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

**I CONCUR,**

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



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

**November 8, 2023**

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

**LINDA BECERRA  
BERKOWITZ & COHEN  
THOMAS KINSEY**

**SAR/abs**

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