

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

PARISS KELLY, *Applicant*

vs.

**CARPET MASTER CHEM-DRY;
WAUSAU UNDERWRITER'S INSURANCE COMPANY,
insured by LIBERTY MUTUAL INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ7026552
Oakland District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant, in pro per, has filed a Petition for Reconsideration consisting of a handwritten document that is largely illegible and unintelligible. Based on our review of the record and for the reasons stated below, we will dismiss the petition.¹

The Labor Code requires that:

The petition for reconsideration shall set forth specifically and in full detail the grounds upon which the petitioner considers the final order, decision or award made and filed by the appeals board or a workers' compensation judge to be unjust or unlawful, and every issue to be considered by the appeals board. The petition shall be verified upon oath in the manner required for verified pleadings in courts of record and shall contain a general statement of any evidence or other matters upon which the applicant relies in support thereof.
(Lab. Code, § 5902, emphasis added.)

Moreover, the Appeals Board Rules provide in relevant part: (1) that “[e]very petition for reconsideration ... shall fairly state all the material evidence relative to the point or points at issue [and] [e]ach contention contained in a petition for reconsideration ... shall be separately stated and clearly set forth” (Cal. Code Regs., tit. 8, former § 10842, now § 10945 (eff. Jan. 1, 2020) and

¹ Commissioner Lowe, who was on the panel that issued a prior decision in this matter, no longer serves on the Appeals Board. Another panelist has been assigned in her place.

(2) that “a petition for reconsideration ... may be denied or dismissed if it is unsupported by specific references to the record and to the principles of law involved” (Cal. Code Regs., tit. 8, former § 10846, now § 10972 (eff. Jan. 1, 2020)).

In accordance with section 5902 and WCAB Rules 10945 and 10972, the Appeals Board may dismiss or deny a petition for reconsideration if it is skeletal (e.g., *Cal. Indemnity Ins. Co. v. Workers' Comp. Appeals Bd. (Tardiff)* (2004) 69 Cal.Comp.Cases 104 (writ den.); *Hall v. Workers' Comp. Appeals Bd.* (1984) 49 Cal.Comp.Cases 253 (writ den.); *Green v. Workers' Comp. Appeals Bd.* (1980) 45 Cal.Comp.Cases 564 (writ den.)); if it fails to fairly state all of the material evidence, including that not favorable to it (e.g., *Addecco Employment Services v. Workers' Comp. Appeals Bd. (Rios)* (2005) 70 Cal.Comp.Cases 1331 (writ den.); *City of Torrance v. Workers' Comp. Appeals Bd. (Moore)* (2002) 67 Cal.Comp.Cases 948 (writ den.); or if it fails to specifically discuss the particular portion(s) of the record that support the petitioner's contentions (e.g., *Moore, supra*, 67 Cal.Comp.Cases at p. 948; *Shelton v. Workers' Comp. Appeals Bd.* (1995) 60 Cal.Comp.Cases 70 (writ den.)). The petition filed herein fails to state grounds upon which reconsideration is sought or to cite with specificity to the record. Therefore, it is subject to dismissal.

If we were not dismissing the Petition for Reconsideration for being skeletal, we would have denied it on the merits for the reasons stated in the WCJ's Report. The District Office may consider initiating vexatious litigant proceedings in this matter.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

JOSEPH V. CAPURRO, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 21, 2023

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

**PARISS KELLY, IN PRO PER
MULLEN & FILIPPI
LAW OFFICES OF JAMES LATIMER & ASSOCIATES**

PAG/abs

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

Applicant filed timely, verified, petitions for reconsideration from my finding that he is not entitled to penalties associated with his medical care.

INTRODUCTION

Applicant, Pariss Kelly, was employed by Carpet Master Chem-Dry, as a carpet cleaner when on May 19, 2009, while he was carrying a heavy buffer down a flight of stairs, his right knee buckled and he went fell to the ground. Mr. Kelly has not worked since the day of his injury.

Dr. Piciucco, one of the many panel qualified medical examiners who evaluated Mr. Kelly over a number of years, diagnosed applicant with a delusional disorder. He concluded that the delusional disorder was caused by the industrial injury. Mr. Kelly's delusional disorder made him unable to compete in the open labor market hence I found that applicant was permanently totally disabled. In addition to finding Mr. Kelly permanently totally disabled, I also awarded a life time of medical care for the parts of body injured in the accident.

Mr. Kelly has been less then cooperative as it pertains to his medical regiment. In order to assist Mr. Kelly with medical care, at my recommendation the defendant retained a nurse case manager. Unfortunately Mr. Kelly has refused the services of the nurse case manager.

At trial on November 22, 2022, Mr. Kelly argued that his medical treatment has been delayed by defendant hence he was entitled to penalties for unreasonable delay of benefits.

I had found that Mr. Kelly was not entitled to penalties, since Mr. Kelly actively delayed receipt of medical treatment by regularly refusing to attend appointments and refusing to accept the assistance of a nurse case manager.

Mr. Kelly has appealed my finding that he is not due any penalties.

DISCUSSION

I attempted to read and comprehend Mr. Kelly's petition for reconsideration. Unfortunately I do not understand what Mr. Kelly's argument is.

Mr. Kelly's case was finalized when I issued my decision awarding him permanent total disability with a right to future medical care. Although the attorney fee claim needed resolution after my decision, all other issues were addressed.

Mr. Kelly unfortunately refuses to accept closure of his case and is constantly requesting hearings on issues that have been addressed in the past.

Mr. Kelly has been told that if there is any treatment recommendation that is denied, he needs to file a request for independent medical review. He has been told that judges have no jurisdiction regarding treatment needs unless there is an untimely utilization review or if there is an appeal of an independent medical review determination.

There is nothing left to be done on Mr. Kelly's case. Mr. Kelly needs to stop filing requests for hearings and needs to find a healthy way of moving on with his life.

RECOMMENDATION

I recommend that the Petition for Reconsideration filed by applicant be ***DENIED***.

02/07/2023

LILLA J. SZELENYI
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE