

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

JUAN SALAZAR, *Applicant*

vs.

**MAYWOOD PLAZA MARKET;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ10344350; ADJ10344309
Oxnard District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the September 29, 2025 Opinion and Decision After Reconsideration (ODAR), wherein the Workers' Compensation Appeals Board (WCAB) found that the declarations filed by lien claimants Industrial Healthcare PMG, Complete Interpreting, and Peralta Hills-Mission Valley Imaging (collectively, lien claimants), met the requirements of Labor Code¹ section 4903.8(d).

Defendant contends that lien claimants' declarant was not competent to testify to the facts asserted because she did not have direct knowledge of the services provided by the physicians, and as such, the section 4903.8(d) declaration is not valid.

We have not received an answer from any party. Because defendant seeks reconsideration of a decision of the WCAB, the WCJ has not prepared a Report and Recommendation on Petition for Reconsideration.

We have considered the Petition for Reconsideration, and we have reviewed the record in this matter. For the reasons discussed below, we will deny reconsideration.

¹ All further references are to the Labor Code unless otherwise noted.

FACTS

The relevant facts are set forth in our ODAR, as follows:

In Case No. ADJ10344350, applicant claimed injury to his low back, shoulders, legs, knees, arms and hands while employed as a butcher/meat cutter by Maywood Ranch Market from March 1, 2015 to February 28, 2016. In Case No. ADJ10344309, applicant claimed injury to his abdomen, groin, internal and hernia while similarly employed on October 1, 2015. Both cases in chief resolved by Compromise and Release ordered approved on April 9, 2019.

These supplemental proceedings involve liens filed by Industrial Healthcare PMG, Complete Interpreting, and Peralta Hills-Mission Valley Imaging. The WCJ's Report sets forth the relevant procedural history as follows:

Lien claimant, Peralta Hills Mission Valley, filed their original lien on 10/20/2017. Lien claimants, Complete Interpreting and Industrial Healthcare Physicians, filed their original liens on 2/22/2018. All three lien claimants filed declarations pursuant to Labor Code §4903.8(d) at the time of each filing (Lien Claimant's Exhibit 7, 2, and 5, respectively), and all the declarations were signed by Ilona Kulikova.

All three lien claimants filed new, amended Labor Code §4903.8(d) declarations, and all were signed by individuals other than Ilona Kulikova. These amended declarations include filings made for Complete Interpreting on 10/5/2020 (Lien Claimant's Exhibit 1) and 6/18/2020 (Lien Claimant's Exhibit 9), filings made for Industrial Healthcare Physicians on 10/5/2020 (Lien Claimant's Exhibit 4) and 6/18/2020 (Lien Claimant's Exhibit 10), and filings made for Peralta Hills Mission Valley on 6/22/2020 (Lien Claimant's Exhibit 11).

On 4/14/2021, a lien trial was held before the undersigned WCJ. After informal discussion of the issues, the parties agreed to limit the scope of the trial to the validity of and compliance with the Labor Code §4903.8(d) declarations filed by Lien Claimants. Although the liens listed above were put at issue for trial, all other issues related to those liens besides compliance with that section were deferred. The evidence was identified for the record, with lien claimants objecting to the admissibility of Defendant's Exhibit A for failure to comply with CCP §2025.620. The parties did not offer any testimony of any witnesses, and the matter stood submitted for decision at that time.

On 5/7/2021, after review of all the evidence submitted by the parties and other documents in the court's file, an Order Vacating

Submission and Notice of Intent to Resubmit Based Upon New Evidence issued by this court. Three additional declarations were identified by this court, and marked as evidence as Lien Claimant's Exhibit 9, 10, and 11. There being no objection to the admissibility of that evidence by either party, the matter stood resubmitted for decision as of 5/24/2021.

On 6/1/2021, this court issued the two Findings and Orders and Joint Opinion on Decision at issue herein. The undersigned WCJ Found the original declarations filed by lien claimants do not meet the requirements of Labor Code §4903.8(d), the lien filings are invalid pursuant to Labor Code §4903.8(e), and lien claimants' attempts to cure the original lien filings by filing new, amended Labor Code §4903.8(d) declarations were untimely pursuant to Labor Code §4903.5(a). This court also overruled lien claimants' objection to Defendant's Exhibit A and lien claimants' liens were Ordered dismissed. (Report, at pp. 2-3.)

The WCJ's Opinion on Decision addressed the deficiencies in lien claimants' section 4903.8(d) declarations as follows:

Ilona Kulikova never had any personal knowledge about the validity of those declarations, and she would just rely upon the information being entered into a computer system by others (Defendant's Exhibit A, pages 20 to 30). This was the standard business practice of Ilona Kulikova for all such declarations while working at QBC for the period 2011 through 2018, which is when the declarations were signed for these providers in this case (Defendant's Exhibit A, page 30). Lien claimants offered nothing to rebut this evidence, or to clarify Ilona Kulikova's sworn testimony made at that deposition. (Opinion on Decision, at p. 2.)

The WCJ determined that because the section 4903.8(d) declarations were invalid, the liens supported by those declarations were similarly invalid pursuant to section 4903.8(e). (Findings of Fact Nos. 2 & 3.) The WCJ further determined that lien claimants' attempts to cure the defects through amended filings were untimely. (Finding of Fact No. 4.)

(ODAR, at pp. 2-4.)

Lien claimants sought reconsideration, and on August 24, 2021, we granted lien claimants' petition to further study the legal and factual issues presented. (Opinion and Order Granting Petition for Reconsideration, dated August 24, 2021.)

On September 29, 2025, we issued our ODAR determining that the "declarations filed by Complete Interpreting, Industrial Healthcare Physicians, and Peralta Hills Mission Valley and

signed by Ilona Kulikova meet the requirements of Labor Code section 4903.8(d).” (Finding of Fact No. 1.) We explained that insofar as the declaration made by Ms. Kulikova complied with the requirements of Code of Civil Procedure section 2015.5 and was responsive to the requirements set forth in section 4903.8(d), the declaration made a prima facie showing of the truth of the matters asserted therein. (ODAR, at p. 7.) When defendant challenged the competency of Ms. Kulikova to make the declaration, the burden shifted to defendant to demonstrate her incompetence. (*Ibid.*)

We further observed that section 4903.8(d) requires attestation that the services or products described in the bill for services or products were actually provided to the injured employee and that the billing statement attached to the lien truly and accurately describes the services or products that were provided to the injured employee. (Lab. Code, § 4903.8(d)(1)-(2).) We noted that Ms. Kulikova testified to “having access to both the underlying medical reports and the associated billing corresponding to each lien claim in which she provided a declaration under section 4903.8(d).” (*Id.* at p. 9.) We further noted that the direct connection between the billing office and the provider’s office allowed the Ms. Kulikova to competently testify as to the actual services provided to the injured employee, and that billing statement accurately corresponds to the services set forth in the associated medical reports. (*Ibid.*) We were thus persuaded that Ms. Kulikova “had at all relevant times access to the information upon which she could declare that both the services being billed were actually provided and that the billing statement accurately describes the services.” (*Id.* at p. 9.) Accordingly, we concluded that defendant had not met its burden of establishing that the declarant was not competent to testify to the required facts under section 4903.8(d). (*Ibid.*)

Newly aggrieved, defendant now seeks reconsideration of our ODAR.

DISCUSSION

I.

Former section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on October 28, 2025, and 60 days from the date of transmission is Saturday, December 27, 2025. The next business day that is 60 days from the date of transmission is Monday, December 29, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on December 29, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to our review of the record, we did not receive a Report and Recommendation by a workers’ compensation administrative law judge. However, a notice of transmission was served by the district office on October 28, 2025, which is the same day as the transmission of the case to the Appeals Board on October 28, 2025. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1), and consequently they had actual notice as to the commencement of the 60-day period on October 28, 2025.

² WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers’ Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

II.

Our ODAR determined that lien claimants' section 4903.8(d) declaration made a prima facie showing of the truth of the matters asserted, namely, that the billing statement accurately described the services or products provided to applicant, and that those services or products were actually provided. (Lab. Code, § 4903.8(d).) Defendant challenges the competence of lien claimants' declarant Ms. Kulikova, asserting she "did not testify to any personal knowledge of any of the services provided by the doctors in her cases ... and relied entirely upon the information put into the computer by someone at the doctor's office." (Petition, at p. 6:3.)

In support of this contention, defendant directs our attention to the WCAB panel decision³ in *Preza v. W. American Rubber Co.* (December 30, 2022, ADJ9108132, ADJ9107442) [2022 Cal. Wrk. Comp. P.D. LEXIS 387] (*Preza*), for the proposition that a declarant who has no personal knowledge of the services provided and who further fails to make a "follow-up determination" is not competent to make the required declarations under section 4903.8(d). (Petition, at p. 8:15.)

In *Preza*, multiple lien claimants sought reimbursement for services ranging from medical transportation to surgical procedures performed under anesthesia. Defendant challenged the liens in multiple respects, including a challenge to whether the providers were sufficiently licensed. The WCJ agreed in the first instance, noting deficiencies in the licensing of both the medical transportation provider and the outpatient surgical center which materially impaired their claims for reimbursement. (*Preza, supra*, 2022 Cal. Wrk. Comp. P.D. LEXIS 387, at pp. 10-12.)

Defendant further challenged the sufficiency of multiple section 4903.8(d) declarations all offered by the same declarant who testified that "she looks at each billing and report or travel certificate before they go on a spread sheet," and that this formed the basis of personal knowledge upon which declarant submitted her section 4903.8(d) declaration. (*Preza, supra*, 2022 Cal. Wrk. Comp. P.D. LEXIS 387, at p. 16.) The WCJ concluded that applicant's personal review of the spreadsheet did not "mean she ha[d] personal knowledge that the services or products billed were

³ Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425, fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citable authority and we consider these decisions to the extent that we find their reasoning persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 242, fn. 7 (Appeals Board en banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal.App.3d 1260, 1264, fn. 2 [54 Cal.Comp.Cases 145].) Here, we refer to these panel decisions because they considered a similar issue.

actually provided and that the billing statement attached to the lien truly and accurately describe[d] the services or products that were provided to the injured employee.” (*Id.* at p. 17.) The WCJ further observed that testimony from defendant’s bill review expert called into question the accuracy of the coding used in the billing of the procedures and raised questions of whether multiple procedures were separately billed in a way designed to inflate charges. (*Id.* at p. 19.) Moreover, applicant’s testimony suggested that the submitted billing for an invasive surgical procedure did not accurately reflect the nature of the procedure performed. (*Id.* at pp. 18-19.) The WCJ observed that when confronted with these coding issues and the question of whether the billing matched the procedures actually performed, lien claimants’ declarant was unable to effectively respond or provide the information to which her declaration attested. (*Id.* at pp. 17, 20-21.) Based on the deficiencies in the licensing of the providers, the identified inconsistencies in the billing codes submitted, continued questions as to the accuracy of the procedures billed, and the inability of the declarant to address these issues, the WCJ dismissed the liens.

Following lien claimants’ Petition for Reconsideration, we affirmed the WCJ’s determination, noting that insofar as the WCJ found defendant’s witnesses to be the more persuasive, we afforded considerable weight to the WCJ’s credibility determinations. (*Id.* at p. 3; see also *Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].) However, in analyzing the section 4903.8(d) declaration, we began our analysis with a significant caveat:

We do not adopt or incorporate the WCJ’s analysis to the extent it suggests the validity of petitioners’ liens depends upon the form of [declarant] Ms. Linkletter’s signature on the declarations required by Labor Code section 4903.8(d), or to the extent the WCJ suggests Ms. Linkletter needed to personally witness or have “firsthand knowledge” of the medical services or products in question. Section 4903.8(d) does not impose such requirements upon the declarant. Rather, the declarant simply must be competent to testify (1) that the services or products described in the bill for services or products were actually provided to the injured employee; and (2) the billing statements attached to the lien truly and accurately describe the services or products that were provided to the injured employee.

(*Id.* at pp. 3-4.)

We further observed that lien claimants’ section 4903.8(d) declaration was “valid as to form,” but in light of the entire evidentiary record, that declarant failed to substantiate that the products or services were provided to the applicant. (*Id.* at p. 4.) We noted that the declarant offered

conflicting testimony regarding whether she reviewed medical reports prior to approving and submitted the corresponding billing could not “vouch for the accuracy of the operative reports” upon which the billing was based. (*Ibid.*) Based on the WCJ’s opportunity to observe the witnesses during trial proceedings, the identified conflicts in the record, and the declarant’s inability to verify that the billing statements truly and accurately describe the services or products provided, we affirmed the WCJ’s decision dismissing the liens. (*Id.* at pp. 5-6.)

In the present matter, defendant contends that section 4903.8(d) declarant Ms. Kulikova was unable to testify to “any personal knowledge of any of the services provided by the doctors in her cases ... and relied entirely upon the information put into the computer by someone at the doctor’s office.” (Petition, at p. 7:3.) However, as was the case in *Preza, supra*, 2022 Cal. Wrk. Comp. P.D. LEXIS 387, we discern no requirement under section 4903.8(d) that the declarant have actual or firsthand knowledge of the services provided. (*Id.* at pp. 4-5; ODAR, at p. 8; see also *Lopez v. Marromac* (January 23, 2018, ADJ9827338) [2018 Cal. Wrk. Comp. P.D. LEXIS 633].) Moreover, in *Preza* we observed that although the section 4903.8(d) declaration was correct as to form and content and thus offered prima facie evidence of the truth of the matters attested to, defendant *met its affirmative evidentiary burden* to overcome such prima facie evidence through a strong evidentiary showing. We observed that defendant’s expert witnesses had testified persuasively to errors and inconsistencies in the billing submitted by lien claimants, and that applicant’s testimony similarly suggested errors and inconsistencies in the billing. And in each instance, the section 4903.8(d) declarant was unable to reconcile or explain the inconsistencies in the record versus the billing and liens. Put simply, defendant offered persuasive evidence that met its burden of overcoming the prima facie showing of competence arising out of lien claimants’ section 4903.8(d) declaration. Defendant’s evidentiary showing established exactly the types of billing and coding discrepancies the legislature was concerned with when it mandated the declaration required under section 4903.8(d).

Here, lien claimants’ declaration similarly complies with the form and content required under section 4903.8(d) and is thus prima facie evidence that the services or products described in the bill for services or products were actually provided to the injured employee and that the billing statement attached to the lien truly and accurately describes the services or products provided. (Lab. Code, § 4903.8(d).) However, whereas in *Preza* defendant established through significant and persuasive evidence that the declarant was not competent to testify to the truth of the matters

asserted, defendant in the instant matter offers no persuasive evidence of incompetence. Defendant interposes no trial testimony from any witnesses to establish discrepancies between procedures performed and corresponding billing. Defendant offers no reporting or testimony asserting discrepancies in the coding of the procedures performed. Defendant provides no persuasive testimony, reporting, or other evidence that would call into question whether services billed for were actually provided. Rather, defendant's Petition asserts that because declarant was limited to the information present on her computer "without any effort made to verify or confirm the services were provided," the deposition testimony of Ms. Kulikova standing alone overcomes the prima facie showing of the otherwise competent declaration.

We remain persuaded, however, that rather than diminishing the competence of the witness, the deposition testimony of Ms. Kulikova actually establishes that her real-time access to the reporting and corresponding billing of each physician's office as it was entered into the interlinked computer system supported the assertion of competence to testify that the billing accurately reflects services actually provided to the applicant. Moreover, we continue to conclude that the legislature did not intend that the section 4903.8(d) declaration require that the declarant to have been a percipient witness to each and every procedure or medical service provided to the applicant. (See *Marroquin v. Oakwood Cemetery* (November 17, 2020, ADJ9638509, ADJ9638510) [2020 Cal. Wrk. Comp. P.D. LEXIS 364] ["a declarant's knowledge may be based on, for example, hearsay evidence ... [t]he 'probative force' of the evidence, including hearsay evidence, is for the trier of fact to ascertain"].)

In our view, Ms. Kulikova's access to real-time information regarding the services provided and their corresponding billing was sufficient to support her declaration in the first instance, while the lack of countervailing evidence precludes defendant from meeting its burden necessary to overcome the prima facie showing made by lien claimants.

Accordingly, and following our complete review of the entire evidentiary record occasioned by defendant's Petition, we remain persuaded that defendant has not met its burden of overcoming the prima facie showing of compliance with the declarations section 4903.8(d). We will deny reconsideration, accordingly.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 22, 2025

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

**INNOVATIVE MEDICAL MANAGEMENT
STATE COMPENSATION INSURANCE FUND**

SAR/abs

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