

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

MARITZA VILLATORO, *Applicant*

vs.

**WALLPAPER CITY LLC.;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number ADJ10334806
Los Angeles District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration in order to allow us time to further study the factual and legal issues in this case. Having completed our review, we now issue our Decision After Reconsideration.

Lien claimant Citywide Scanning Service, Inc. (lien claimant) seeks reconsideration of the Findings and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on February 2, 2021, wherein the WCJ found in pertinent part that lien claimant did not meet its burden of proving that there was a contested claim at the time the services were requested in their NON-IBR medical-legal dispute petition.

Lien claimant contends that lien claimant was not allowed time to prepare to address these issues nor include evidence to support its position regarding its burden of proof; and that it met its burden to show that a contested claim existed at the time of the subpoenas.

We have not received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have considered the allegations in the Petition and the contents of the Report with respect thereto. Based on our review of the record, we will rescind the F&O and substitute a new F&O which finds that lien claimant met its burden to show that a contested claim existed at the time its services were provided.

BACKGROUND

We will briefly review the relevant facts.

Applicant while employed during the period of November 1, 2014 through November 1, 2015, as an office manager for defendant claimed to have sustained injury arising out of and in the course of employment to her neck, knee, foot, stress, and body systems.

On February 19, 2016, defendant State Compensation Insurance Fund (SCIF), issued a delay letter addressed to applicant. The letter stated that there was a delay in determining liability for workers' compensation benefits and that applicant would be notified of a decision on or before May 12, 2016. (Exhibit 8, 2/19/2016.)

On March 14, 2016, applicant filed an Application for Adjudication (Application).

On May 5, 2016, SCIF's claims adjuster issued a letter to applicant's attorney, disputing the compensability of applicant's reported industrial injury. (Exhibit 7, 5/5/2016.)

On February 25, 2016, via an order form, applicant's attorney requested records from applicant's employer Wallpaper City LLC, the WCIRB, and Renee Kohanim, M.D. (Exhibit 1, 2/25/2016.)

Between March 24, 2016 through August 15, 2017, multiple subpoena duces tucum (SDTs) were served at various locations on behalf of applicant. (Exhibit 2, January 15, 2021.)

On April 7, 2016, lien claimant served defendant invoices for its services on April 7, 2016, April 25, 2016, and September 14, 2016. (Exhibit 4, 1/15/2021.)

On January 28, 2021, the matter came on for lien trial on the cost petition of Citywide Scanning. The issues were: medical-legal expense entitlement per Labor Code sections 4620, 4621; Costs, sanctions; penalties and interest; Labor Code section 4622, medical-legal.

DISCUSSION

The threshold issue when considering reimbursement of a medical-legal expense is whether there is a contested claim. A party's ability to subpoena records is governed by the Labor Code and the WCAB Rules of Practice and Procedure which generally provide "adequate tools to the practitioner for liberal discovery." (*Allison v. Workers' Comp. Appeals Bd.* (1999) 72 Cal.App.4th 654, 663 [64 Cal.Comp.Cases 624].) Thus, the public policy favoring liberal pre-trial discovery that may reasonably lead to relevant and admissible evidence is applicable in workers' compensation cases. (*Ibid.*)

A lien claimant holds the burden of proof to establish all elements necessary to establish its entitlement to payment for a medical-legal expense. (See Lab. Code, §§ 3205.5, 5705.5; *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1115 (Appeals Board en banc).) As we explained in our en banc decision in *Colamonico v. Secure Transportation* (2019) 84 Cal. Comp. Cases 1059 (Appeals Board en banc), Labor Code section 4622¹ provides the framework for reimbursement of medical-legal expenses. Subsection (f) of the statute, however, specifically states that “[t]his section is not applicable unless there has been compliance with Sections 4620 and 4621.” (Lab. Code, § 4622(f).) Thus, a lien claimant is required to establish that: 1) a contested claim existed at the time the expenses were incurred; 2) the expenses were incurred for the purpose of proving or disproving the contested claim; and 3) the expenses were reasonable and necessary at the time were incurred. (Lab. Code, §§ 4620, 4621, 4622(f); *Colamonico, supra*, 84 Cal.Comp.Cases 1059.)

Section 4620(a) defines a medical-legal expense as a cost or expense that a party incurs “for the purpose of proving or disproving a contested claim.” (Lab. Code, § 4620(a).) Copy services fees are considered medical-legal expenses under 4620(a). (*Cornejo v. Younique Cafe, Inc.* (2015) 81 Cal.Comp.Cases 48, 55 (Appeals Board en banc); *Martinez v. Terrazas* (2013) 78 Cal.Comp.Cases 444, 449 (Appeals Board en banc).) Lien claimant’s initial burden in proving entitlement to reimbursement for medical-legal expense is to show that a “contested claim” existed at the time the service was performed.

Section 4620(b) states that: “A contested claim exists when the employer knows or reasonably should know that the employee is claiming entitlement to any benefit arising out of a claimed industrial injury and one of the following conditions exists: (1) The employer rejects liability for a claimed benefit. (2) The employer fails to accept liability for benefits after the expiration of a reasonable period of time within which to decide if it will contest the claim. (3) The employer fails to respond to a demand for payment of benefits after the expiration of any time period fixed by statute for the payment of indemnity.” (Lab. Code, § 4620(b).) The determination of whether a purported medical-legal expense involves a “contested claim” is a fact driven inquiry.

Here, we disagree with the WCJ, as there was a contested claim as evidenced by the delay letter issued by SCIF on February 19, 2016. Moreover, applicant filed an Application on March

¹ Unless otherwise stated, all further statutory references are to the Labor Code.

14, 2016, and the first subpoena for records was served on March 24, 2016. Thus, at the time the copy services were provided, that is the subpoenas were served, the claim was contested.

Accordingly, we rescind the F&O and substitute a new F&O that finds that lien claimant met its burden to show that a contested claim existed at the time the services were provided. Since lien claimant has established that a contested claim existed at the time that the services were provided, upon return of this matter to the trial level, the WCJ can then proceed on the remaining issues.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings & Order issued on February 2, 2021 is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

Citywide Scanning Service of Los Angeles met its burden of proving that there was a contested claim under Labor Code section 4620 at the time the services were provided.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 19, 2025

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

**MARITZA VILLATORO
CITYWIDE SCANNING SERVICES
STATE COMPENSATION INSURANCE FUND**

DLM/oo

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