

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

REBECCA BLUNT (dec.), *Applicant*

vs.

**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION; legally
uninsured, adjusted by STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ10305799
Sacramento District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR RECONSIDERATION**

Defendant seeks reconsideration or in the alternative removal of the “Opinion and Order Granting Petition for Reconsideration” (Grant) issued on July 22, 2025, by the Workers’ Compensation Appeals Board. The Appeals Board granted applicant’s petition for reconsideration of this matter and expressly deferred any final decision after reconsideration pending further review of the record.

Defendant contends that the Appeals Board is without jurisdiction to determine the petition for reconsideration in this matter.

We have not received an answer from applicant.

We have considered the allegations of the Petition for Reconsideration. Based upon our preliminary review of the record, we will grant the Petition for Reconsideration. Our order granting the Petition for Reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to section 5950 et seq.

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.

(§ 5909.)

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 August 20, 2025, and 60 days from the date of transmission is Sunday, October 19, 2025, which by operation of law means this decision is due by Monday, October 20, 2025. (Cal. Code Regs., tit. 8, § 10600.). This decision is issued by or on October 20, 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. As this case involves reconsideration of an order issued by the Appeals Board, Section 5909(b)(2) is not applicable.

II.

The procedural and factual history of this case was discussed in the July 22, 2025 Opinion and Order Granting Petition for Reconsideration and need not be restated herein.

Following the issuance of that order, defendant sought reconsideration and argues that applicant's original petition for reconsideration was denied by operation of law, and thus, the Appeals Board is without jurisdiction to consider the petition. Accordingly, we will grant defendant's petition for reconsideration to consider whether the July 22, 2025 Grant correctly issued.

We note that there is presently a split of authority on the issue of whether an order granting reconsideration to further study the issue is a final order and whether the Appeals Board maintains jurisdiction to further act upon a petition for reconsideration beyond 60 days in such cases. This issue is presently on review in Supreme Court Case No. S287261, *Joseph Mayor v. Workers' Compensation Appeals Board and Ross Valley Sanitation District* [First District Case No. A169465 / WCAB Case No. ADJ10036954] and the parties are presently seeking review in Supreme Court Case No. S293212, *City of Salinas et al. v. Workers' Compensation Appeals Board (Miraco)* [Sixth District Case No. H052062 / WCAB Case No. ADJ14038029]. Given that these cases are presently pending, the prudent course in this matter is to grant defendant's petition for reconsideration to preserve its rights, should the Supreme Court ultimately decide the issue in defendant's favor.

Under our broad grant of authority, our jurisdiction over this matter is continuing.

A grant of reconsideration has the effect of causing "the whole subject matter [to be] reopened for further consideration and determination" (*Great Western Power Co. v. I.A.C. (Savercool)* (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of "[throwing] the entire record open for review." (*State Comp. Ins. Fund v. I.A.C. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See §§ 5907, 5908, 5908.5; see also *Gonzales v. I.A.C.* (1958) 50 Cal.2d 360, 364.) "[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.>"; see generally § 5803

[“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”.]

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen’s Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593.) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].)

Section 5901 states in relevant part that:

No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. . . .

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to sections 5950 et seq.

Accordingly, we grant defendant’s petition for reconsideration and defer a final decision after reconsideration pending further review of the merits of defendant’s arguments.

For the foregoing reasons,

IT IS ORDERED that defendant's petition for reconsideration of the Opinion and Order Granting Petition for Reconsideration issued on July 22, 2025, by the Appeals Board is **GRANTED**.

IT IS FURTHER ORDERED that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 20, 2025

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

**TERRENCE RICHARDSON, *Guardian ad Litem*
GEORGE FOGY, ESQ.
STATE COMPENSATION INSURANCE FUND, LEGAL**

EDL/mc

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