WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

ALMA DIAZ MERAZ, ***Applicant***

vs.

GLANBIA NUTRITIONALS ASEPTIC SOLUTIONS;
ZURICH LOS ANGELES, ***Defendants***

Adjudication Number: ADJ18031412
San Diego District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Lien claimant Medland Medical seeks reconsideration of the Findings and Order issued by the workers' compensation administrative law judge (WCJ) on April 6, 2026. Therein, the WCJ found that, while employed as a Machine Operator/Packer, applicant claims to have sustained injury arising out of and occurring in the course of employment (AOE/COE) to her bilateral arms, bilateral hands, back, bilateral hips, and bilateral legs. The WCJ further found that the case in chief settled via Compromise and Release with an Order Approving issuing October 14, 2025; that lien claimant did not meet the burden of proof on the injury AOE/COE, such that the lien is disallowed in its entirety. Based on these findings, the WCJ ordered that lien claimant's lien be disallowed in its entirety.

Lien claimant contends that the WCJ should have relied on the medical opinion of Shane Doney, D.C., to find that it met its burden of proof on the issue of injury AOE/COE. Pursuant to our authority, we accept lien claimant's supplemental pleading filed on November 23, 2022. (Cal. Code Regs., tit. 8, § 10964.)

We did not receive an answer. The WCJ issued a Joint Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition for Reconsideration be denied.

We have considered the Petition for Reconsideration, and the contents of the Report, and we have reviewed the record in this matter. 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 Labor Code[1] section 5950 et seq.

I.

Preliminarily, we note that 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 May 6, 2026 and 60 days from the date of transmission is Sunday, July 5, 2026. The next business day that is 60 days from the date of transmission is Monday, July 6, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2]. This decision is issued by or on Monday, July 6, 2026, so that we have timely acted on the petition as required by section 5909(a).

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[1] All further statutory references are to the Labor Code, unless otherwise noted.
[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

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 the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on May 6, 2026, and the case was transmitted to the Appeals Board on May 6, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on May 6, 2026.

II.

The WCJ provided the following discussion in the Report:

FACTUAL BACKGROUND

> Applicant, Alma Diaz Meraz, while employed during the period January 1, 2022, through March 20, 2023, as a Machine Operator/Packer, Occupational Group No. 330, at Corona, California, by Glanbia Nutritionals/Aseptic Solutions, claims to have sustained injury arising out of and in the course of employment to her bilateral arms, bilateral hands, back, bilateral hips, and bilateral legs.
>
> At the time of the alleged injury, the employer's workers' compensation carrier was Zurich North American Insurance Company. The carrier denied this claim in its entirety. (Joint Exhibit 104)
>
> The underlying claim resolved via Compromise and Release with an Order Approving Compromise and Release issuing on October 14, 2025. The lien of Medland Medical, Inc., was outstanding at the time of the resolution of the underlying claim. Petitioner and defendant proceeded to a lien conference wherein the lien was not resolved. The parties proceeded to trial on such lien on March 11, 2026, agreeing to waive any testimony and submitted the matter solely on the evidentiary record. (MOH, 3/11/2026)

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.

This WCJ issued a Findings and Order dated April 3, 2026. It is from that Findings and Order Petitioner filed a Petition for Reconsideration.

DISCUSSION

[] The Petitioner contends the medical evidence submitted in this case supports the finding of injury in favor of the applicant. Petitioner indicates in their petition that applicant presented to Dr. Haghighinia in the capacity as the PTP. All parties agree that Dr. Haghighinia has been compensated for his medical-legal service.

Based on the denial of the claim, and in accordance with Labor Code Section 4062.2, the parties presented to QME Dr. Shane Doney, D.C., to resolve the AOE/COE dispute in this matter. As noted in the Petition for Reconsideration, QME Doney reported,

> "Review of these records does not change any of the opinions expressed in my previous reports. The records do not provide any additional evidence to support her claim for cumulative trauma. As noted in my May 30, 2024, report, the only body parts that are included in the claim and also documented by Dr. Haghighinia and the applicant's deposition testimony are the right shoulder and lower back. However, there were no complaints documented until October 2023, seven months after she stopped working for Glanbia Nutritionals / Aseptic Solutions, and four months into her subsequent employment with Polyair."

What Petitioner did not point out in their petition is the next paragraph of the same report, which states,

> "It is conceivable that the applicant's job duties as a machine operator / packer between January 1, 2022, and March 2023 could have resulted in cumulative trauma to her right shoulder and lower back. However, in the absence of evidence that Ms. Diaz Meraz was experiencing symptoms in her right shoulder or lower back while she was actively working for Glanbia Nutritionals / Aseptic Solutions, it will need to be left to the Trier of Fact to determine whether or not her history is true and accurate."

It appears Petitioner does not understand that the ultimate conclusion of industrial causation in this matter was deferred to the Trier of Fact, specifically the undersigned. In addition, the Petitioner fails to understand that the burden of proof lies with them, and the burden has not shifted to the defendant.

Under Labor Code Section 5705, the burden of proof rests upon the party holding the affirmative of the issue.

Labor Code §3202.5 states:

> "All parties and lien claimant shall meet the evidentiary burden of proof on all issues by a preponderance of the evidence in order that all parties are considered equal before the law. 'Preponderance of the evidence' means that evidence that, when weighed with that opposed to it, has more convincing force and the greater probability of truth. When weighing the evidence, the test is not the relative number of witnesses, but the relative convincing force of evidence."

As already noted in the Findings and Order/Opinion on Decision, the parties stipulated the matter would be submitted solely on the evidentiary record. The medical record presented established that the applicant may have an injury, but it did not establish that any such alleged injury was connected to the employment or employer in this current matter. Thus, without any further evidence presented on behalf of the petitioner, they have failed to meet their burden of proof.

As for any further analysis of the medicals, it will not be reiterated as it is already detailed in the Opinion on Decision. Although the undersigned in the Opinion on Decision referenced the Zepeda case to remind lien claimant of their previous litigation, it should be emphasized that this current matter was decided solely on the evidentiary record in this specific case. However, this is not the only case in which this particular lien claimant has moved forward with litigation without providing any evidence to establish industrial causation. In fact, in this current matter, one can look at the determinations made in ADJ16902178 - LETICIA ARIAS. Again, such case is not binding on this Court, but it is found persuasive.

(Report, at pp. 1-4.)

III.

We highlight the following legal principles that may be relevant to our review of this matter:

Pursuant to section 5705, "The burden of proof rests upon the party or lien claimant holding the affirmative of the issue." (Lab. Code, § 5705.) A lien claimant has the burden of proving all elements necessary to establish the validity of its lien. Section 3202.5 states that, "All parties and lien claimants shall meet the evidentiary burden of proof on all issues by a preponderance of the evidence." (Lab. Code, § 3202.5; *Boehm & Associates v. Workers' Comp. Appeals Bd. (Brower)* (2003) 108 Cal.App.4th 137, 150 [68 Cal.Comp.Cases 548, 557.) A lien claimant treating physician's burden of proof includes the burden of showing that he or she provided medical treatment "reasonably required to cure or relieve" the injured worker from the effects of an industrial injury. (Lab. Code, § 4600(a); *Williams v. Industrial Acc. Com*. (1966) 64 Cal.2d 618

[31 Cal.Comp.Cases 186]; *Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd.* (1994) 26 Cal.App.4th 789 [59 Cal.Comp.Cases 461]; *Workmen's Comp. Appeals Bd. v. Small Claims Court (Shans)* (1973) 35 Cal.App.3d 643 [38 Cal.Comp.Cases 748].) Where a lien claimant, rather than the injured worker, litigates the issue of entitlement to payment for industrially-related medical treatment, the lien claimant stands in the shoes of the injured worker and the lien claimant must establish injury by preponderance of evidence. (*Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Martin)* (1985) 39 Cal.3d 57, 67 [50 Cal.Comp.Cases 411]; *Kunz, supra*, 67 Cal.Comp.Cases at p. 1592.)

It is well established that decisions by the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza, supra*; *LeVesque v. Workmen's Comp. Appeals Bd*. (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) "The term 'substantial evidence' means evidence which, if true, has probative force on the issues. It is more than a mere scintilla, and means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion … It must be reasonable in nature, credible, and of solid value." (*Braewood Convalescent Hosp. v. Workers' Comp. Appeals Bd. (Bolton)* (1983) 34 Cal.3d 159, 164 [48 Cal.Comp.Cases 566], emphasis removed and citations omitted.) To constitute substantial evidence "… a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).)

Here, it appears from our preliminary review that the record may not be complete regarding the issue of compensability. Taking into account the statutory time constraints for acting on the petition, and based upon our initial review of the record, we believe reconsideration must be granted to allow sufficient opportunity to further study the factual and legal issues in this case. We believe that this action is necessary to give us a complete understanding of the record and to enable us to issue a just and reasoned decision. Reconsideration is therefore granted for this purpose and for such further proceedings as we may hereafter determine to be appropriate.

IV.

In addition, 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. Industrial Acc. Com*. (*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. Industrial Acc. Com*. (*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 Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci*. *Com*. (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 Lab. Code, § 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 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) 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 Labor Code sections 5950 et seq.

V.

Accordingly, we grant lien claimant's Petition for Reconsideration, and 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. ***While this matter is pending before the Appeals Board, we encourage the parties to participate in the Appeals Board's voluntary mediation program. Inquiries as to the use of our mediation program can be addressed to*** WCABmediation@dir.ca.gov.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration 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/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 26, 2026

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

ALMA DIAZ MERAZ
THE WENDEROFF LAW GROUP
MEDLAND MEDICAL, INC.

PAG/cm

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