WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

CELIO QUEZADA CHINA, *Applicant*

vs.

MERCHANT LANDSCAPE SERVICES, INC.; TRISTAR, *Defendants*

Adjudication Number: ADJ18692912
Van Nuys District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Lien claimant Medland Medical, Inc. (lien claimant) seeks reconsideration of the Findings and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on July 22, 2026, wherein the WCJ found in pertinent part that applicant, while employed as a landscaper and driver by defendant, claims to have sustained injury arising out of and in the course of employment during the period of July 1, 2023 to November 1, 2023 to his back, shoulders and feet; that sanctions and costs are not appropriate in this case; and that lien claimant was entitled to payment for medical treatment provided.

Lien claimant contends that a contested claim existed at the time of the report of March 12, 2024, and the report is a valid medical-legal report; and that sanctions and costs are appropriate in this case.

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

Lien claimant has also filed a request to file a supplemental pleading and a proposed "Answer to the Workers' Compensation Judge's Report and Recommendation on Petition for Reconsideration." We have read and considered both pleadings pursuant to WCAB Rule 10964(a) and (b). (Cal. Code Regs., tit. 8, § 10964(a)-(b).)

We have considered the allegations in the Petition, the supplemental pleading, and the contents of the Report. Based on our review of the record, and as discussed below, we will grant lien claimant's Petition for Reconsideration, and affirm the F&O, except that we will amend it to defer the issue of defendant's liability for the medical-legal reporting and sanctions (Findings 9, 12, 13, 15) and return the matter to the WCJ for further proceedings consistent with this opinion.

BACKGROUND

We will briefly review the relevant facts.

Applicant claimed that while employed by defendant as a maintenance driver during the period from July 1, 2023, to November 1, 2023, he sustained a cumulative injury to his back, shoulders and foot.

Defendant issued an MPN Notice to applicant dated December 21, 2023. (Exhibit D, 12/21/2023.)

On December 11, 2023, applicant's attorney designated Omid Haghighinia, D.C., as applicant's Primary Treating Physician (PTP). (Exhibit 4, 12/11/2023.) In the same letter, applicant's attorney requested a comprehensive medical-legal evaluation and the preparation of a med-legal report to address the contested issues. (Exhibit 4, 12/11/2023.)

Defendant issued A Notice Regarding Delay of Workers Compensation Benefit addressed to applicant dated December 26, 2023, which states in pertinent part that "benefits are being delayed because we need to conduct an investigation into industrial causation to include statements, obtaining medical records and obtaining a medical evaluation before determining compensation and we will notify you of our decision on or before March 18, 2024." (Exhibit C, 12/26/2023.)

Applicant filed an Application for Adjudication of Claim (Application) on January 4, 2024, alleging cumulative injury from July 1, 2023 through November 1, 2023, to the back, shoulders and foot.

Following applicant's treatment with Dr. Haghighinia on January 23, 2024, A Notice of Utilization Review Deferral issued on February 7, 2024. It stated that defendant was "deferring utilization review because the claims administrator disputes liability for either the occupational injury for which the treatment is recommended or the recommended treatment itself on grounds other than medical necessity." It further stated: "Pursuant to §9792.9.1(b) the claims administrator disputes liability for the recommended treatment itself on grounds other than medical necessity,

specifically, the requesting physician is not in the established Medical Provider Network." (Exhibit B, 2/7/2024.)

On March 12, 2024, Dr. Haghighinia examined applicant and issued a Primary Treating Physician's Medical and Legal Permanent and Stationary Report for applicant's claimed injury of July 1, 2023 to November 1, 2023. (Exhibit 1, 3/12/2024.) The report is addressed to applicant's attorney and defendant ClaimQuest, Inc. The report begins by stating:

> Please be advised that Celio Quezada was examined in this office today for a Permanent and Stationary Evaluation for the claim for cumulative trauma injuries sustained from July 01, 2023, through November 01, 2023, while he was working for Merchants Landscape Services Inc. as a Maintenance Driver.

(Exhibit 1, 3/12/2024, p. 1.)

After evaluating applicant, Dr. Haghighinia concluded that applicant had sustained industrially related injuries and recommended medical treatment. (Exhibit 1, 3/12/2024, p. 10.) By way of history Dr. Haghighinia stated that,

> Mr. Quezada is a 57-year-old right-handed male, who presents today upon referral and request by their attorney for a Primary Treating Physician's Comprehensive Medical-Legal Evaluation with regard to a continuous trauma injury that occurred from July 01, 2023, to November 01, 2023, while working for Merchants Landscape Services Inc. His employment began in 2018, as a Maintenance Driver. The patient is here for reevaluation. ***Since the last time I saw the patient, I have received a letter from the Utilization Review in response to our RFA by CQ Management Care, dated February 07, 2024, indicating that they are denying the liability of this case.*** Per the applicant's attorney's request, I am going to generate a Primary Treating Physician Medical Legal evaluation and report to explain the disputed body parts.
>
> The patient performed strenuous labor as a landscaper by trimming, cutting, pruning grass, bushes and trees, and other items assigned by the employer. He worked eight hours per day, five days a week. His job required prolonged sitting, standing, and walking; lifting, pushing, and pulling up to about 60 pounds of weight; and repetitive mobility of bilateral upper and lower extremities.
>
> Previously, the patient worked for CJ Company as a Maintenance Driver for two to three years. He does not recall previous employer names or employment dates.
>
> The patient is currently working full-time for a Recycling Company as a General Laborer. His employment began in December 2023. The patient's job duties include separating trash. The patient's pain is aggravated in the lumbar spine region during his work activities because of the repetitive mobility that he performs with bending and stooping.

> The patient indicated that his pain and discomfort began in July 2023, while he was performing his usual and customary work. The pain affected his low back, bilateral shoulders, and right foot. He blamed his pain and discomfort in the lower back region because of sitting for prolonged periods. He also explained that he was required to sit while using the grass machine, which put stress on his lower back region. He also explained that he performed repetitive heavy lifting, pushing, and pulling during his work activity, which had caused pain and discomfort in his shoulders and upper shoulder musculature. He also blamed his foot pain as a result of prolonged walking and standing while using a paddle while using a machine to cut grass.
>
> He did not report the injury to the supervisor or the employer. He took over-the-counter medication to control pain. He did not see any doctors regarding the pain and discomfort.
>
> He continued to work until November 2023, when he was terminated from his job.
>
> ***
>
> Based on the physical examination performed today, a review of the history of the injury with the patient, and the patient's description of the mechanism of injury, it is my opinion with a reasonable degree of medical probability that the patient has suffered a continuous trauma injury in the course and scope of their employment resulting in the above-listed diagnoses.
>
> Given the patient's current symptoms, physical findings and the nature of his injury, I believe that this patient's current condition and complaints are the direct result of his continuous trauma from July 01, 2023 through November 01, 2023.

(Exhibit 1, 3/12/2024, pp. 8-9, emphasis added.)

On March 15, 2024, defendant issued a Notice Regarding Denial of Workers' Compensation Benefit. (Exhibit J2, 3/15/2024.)

On March 14, 2025, a Notice and Request for Allowance of Lien was filed by Medland Medical, Inc. on behalf of Omid Haghighinia, D.C.

On September 28, 2025, the parties entered into a settlement by way of a Compromise and Release (C&R). Paragraph 9 states under Comments that:

> THE APPLICANT'S CLAIM IS DENIED BASED ON POST-TERMINATION, LACK OF REPORTING AND LACK OF SUBSTANTIAL MEDICAL EVIDENCE. THE PARTIES HAVE AGREED TO SETTLE FOR A NOMINAL SUM TO FORGO ADDITIONAL DISCOVERY AND BUY THEIR PEACE….

Notably, no medical reporting was submitted with the C&R, and applicant waived his right to a qualified medical evaluation.

On October 23, 2025, a WCJ issued an Order Approving Compromise and Release (OACR). As relevant here, the OACR states that: "Upon review of the Board file and reasons set forth in the Compromise and Release, a finding is made that a serious and legitimate issue exists which, if resolved against the injured employee, would defeat the employee's rights to all workers' compensation benefits." It also states that: "The entire medical record is incorporated herein by reference."

On December 16, 2025, lien claimant filed a Declaration of Readiness (DOR) to proceed on the issue of payment of Medland Medical's liens.

On June 18, 2026, lien claimant and defendant proceeded to trial.

On July 22, 2026, the WCJ issued his Findings and Order. In his Opinion on Decision, he stated with respect to the March 12, 2024 report that:

> Applicant sent a letter to the primary treating physician on 11 December 2023 requesting a medical – legal report. However, the claim form and application were not served on the defendant until 04 January 2024. Thus, there was no jurisdiction until that date. Defendant then denied the injury in this case on 15 March 2024. That means that at the time of the medical-legal report of 12 March 2024, no contested claim existed. Thus, there is no valid claim for medical – legal services.

(Opinion, p. 1.)

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code[1] section 5909, which states 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.

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

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 September 2, 2026 and 60 days from the date of transmission is Sunday, November 1, 2026. The next business day that is 60 days from the date of transmission is Monday, November 2, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, November 2, 2026, 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 shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on September 2, 2026, and the case was transmitted to the Appeals Board on September 2, 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 September 2, 2026.

II.

We first note that the WCJ in his Opinion on Decision states the issue of injury AOE/COE hinges on the March 12, 2024 report of Dr. Haghighinia, and that the report is "so mixed up as to the dates that it does not have an accurate history." (Opinion on Decision, 7/22/2026, p. 1.) We

[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.

disagree. Dr. Haghighinia's report aligns with applicant's history of his claimed injury. Additionally, Dr. Haghighinia opined that based on the physical examination performed on March 12, 2024, a review of the history of injury with applicant and his description of the mechanism of injury that it is with a reasonable degree of medical probability that applicant suffered a cumulative injury.

We now turn to the issue of defendant's liability for the medical-legal evaluation that Dr. Haghighinia provided to applicant.

We first note that lien claimants hold the burden of proof to establish entitlement to reimbursement for medical treatment / medical-legal liens. (*Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1115 [2012 Cal. Wrk. Comp. LEXIS 160] (Appeals Board en banc).) 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 they were incurred. (Lab. Code, §§ 4620, 4621, 4622.) Pursuant to *Colamonico v. Secure Transportation* (2019) 84 Cal.Comp.Cases 1059 (Appeals Board en banc), a lien claimant holds the initial burden of proof under sections 4620 and 4621, and once a lien claimant has established these elements, it then may proceed to address the reasonable value of its services under section 4622.

On December 11, 2023, applicant's attorney designated Dr. Haghighinia as applicant's PTP. (Exhibit 4, 12/11/2023.) In the same letter, applicant's attorney requested the preparation of a medical-legal report to address the contested issues. On December 26, 2023, defendant issued a delay notice indicating that they were investigating applicant's claim. Dr. Haghighinia began treating applicant on January 23, 2024.

In his Opinion on Decision, the WCJ stated that at the time of the March 12, 2024 medical-legal report no contested claim existed. We disagree. Applicant filed the Application on January 4, 2024. As of March 12, 2024, defendant had issued a notice of delay and had not provided any medical treatment; defendant eventually denied the claim on March 15, 2024. Thus, a contested claim existed when Dr. Haghighinia provided his services.

Section 4060(b) allows a medical-legal evaluation by the treating physician. Section 4620(a) defines medical-legal expense as "any costs and expenses…for the purpose of proving or disproving a contested claim." Section 4064(a) provides that the employer is liable for the cost of a comprehensive medical evaluation that is authorized by section 4060.

It is clear that the intent of section 4060(b) when read together with section 4064(a) is that a medical-legal evaluation performed by an employee's treating physician is a medical legal evaluation obtained pursuant to section 4060 and that an employer is liable for the cost of reasonable and necessary medical-legal reports that are performed by the treating physician. Moreover, the Appeals Board has previously held that there was no legal authority to support the proposition that an injured worker is not entitled to request a medical-legal report from their primary treating physician, and in turn, the report from that physician is a medical-legal expense for which the defendant is liable. (*Warren Brower v David Jones Construction* (2014) 79 Cal.Comp.Cases 550 (Appeals Board en banc).)

Thus, it appears that applicant's attorney appropriately designated Dr. Haghighinia as applicant's PTP and requested that medical-legal evaluation that took place on March 12, 2024. However, the WCJ only made findings as to medical treatment and made no findings with respect to sections 4620, 4621, 4622, and the compensability of the medical-legal report. It is important to note that defendant did not challenge the award of medical treatment. Thus, the only issue is whether lien claimant is entitled to payment for the medical-legal reporting. We will also defer the issue of sanctions.

Accordingly, we grant lien claimant's Petition for Reconsideration, affirm the F&O, except that we amend it to defer the issue of defendant's liability for the medical-legal reporting and sanctions (Findings 9, 12, 13, 15) and return the matter to the WCJ for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition For Reconsideration of the July 22, 2026, Findings and Orders is **GRANTED**.

IT IS FURTHER ORDERED that as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Findings and Orders of July 22, 2026 is **AFFIRMED** except that it is **AMENDED** as provided below and that this matter is **RETURNED** to the trial level for further proceedings consistent with this opinion.

FINDINGS OF FACT

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9. Dr. Haghighinia's March 12, 2024, medical-legal report contains an accurate history of applicant's injury. The issue of whether defendant is liable for payment of the medical-legal report is deferred.

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12. Defendant is liable for medical billing of lien claimant, Medland Medical in the amount of $1,400.80. The issue of whether defendant is liable for additional payment, including for the medical-legal report is deferred.

13. Defendant is liable for penalties and interest in the amount of $ 210.12 in penalties and $326.95 in interest. The issue of whether defendant is liable for additional penalties and interest is deferred.

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15. The issue of sanctions and costs is deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 2, 2026

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

MEDLAND MEDICAL
WORK COMP RESOLUTIONS, INC.

DLM/kl

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