

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

GERARDO MEDEROS, *Applicant*

vs.

**AG FORCE, LLC, CALIFORNIA FARM MANAGEMENT SELF INSURANCE GROUP,
administered by INTERCARE HOLDINGS INSURANCE SERVICES, *Defendants***

**Adjudication Number: ADJ8766908
Fresno District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

Lien Claimant Supreme Copy seeks reconsideration of the December 5, 2025 Findings of Fact and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a farm laborer on January 12, 2013, claims to have sustained industrial injury to his reproductive system. The WCJ found in relevant part that lien claimant copy service incurred medical-legal expenses and was entitled to reimbursement in the amount of \$902.85 for partially paid invoices, and \$690.29 for wholly unpaid invoices. The WCJ awarded statutory increase and interest on the wholly unpaid invoices but declined to award increase or interest on the partially paid invoices.

Lien claimant contends that the WCJ's calculations inadvertently omitted one of three submitted "market rate" invoices, and that lien claimant is entitled to statutory increase and interest with respect to the partially paid invoices.

We have received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations of the Petition for Reconsideration and the Answer and the contents of the Report. Based on our review of the record, and for the reasons discussed below,

we will affirm the F&O, except that we will amend the decision to defer the issue of statutory increase and interest as it relates to the partially paid invoices. We will then return this matter to the WCJ for further proceedings and decision.

FACTS

Applicant claimed injury to his reproductive system while employed as a farm laborer by defendant Ag Force, LLC on January 12, 2013. The parties resolved the case in chief by way of Compromise and Release, approved on October 1, 2014.

On October 22, 2025, the parties proceeded to trial on issues related to lien claimant's claim of reimbursement for copy service charges incurred in 2013. The parties stipulated that Supreme Copy had received \$2,223.98 from defendant, claiming an additional \$4,164.88 owed. (Minutes of Hearing, dated October 22, 2025, at p. 2:15.) Among the issues framed for decision was Supreme Copy's claim of entitlement to statutory increase and interest pursuant to Labor Code¹ section 4622(a)(1). (*Id.* at p. 2:24.) The parties also raised the issue of whether the equitable doctrine of laches was applicable. (*Id.* at p. 3:10.) Neither party called any witnesses and the WCJ ordered the matter submitted for decision based on the documentary record.

On December 5, 2025, the WCJ issued her F&O, determining in relevant part that at the time of the claimed medical-legal expense there existed a contested claim, and that the medical-legal expense was reasonably incurred for the purpose of proving or disproving a contested claim. (Findings of Fact Nos. 2 & 3.) The WCJ awarded reimbursement corresponding to the wholly unpaid invoices for service locations of Industrial Health Care and Community Regional Medical Center, in the amount of \$690.29. The WCJ also awarded statutory increase and statutory interest on the unpaid amount. (Finding of Fact No. 6.) With respect to the remaining invoices submitted for decision, the WCJ determined that defendant had made partial payments, and awarded \$902.85 in additional reimbursement based on reasonable market rates. (Finding of Fact No. 5.) However, the WCJ did not award statutory increase or interest with respect to the partially paid invoices. Although the WCJ did not enter a formal finding of fact on the issue, the WCJ's Opinion on Decision explained that defendant had not met its affirmative burden of entitlement to equitable relief under the doctrine of laches because "[t]he only evidence submitted by Defendant was a

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

benefits printout ... listing payments to Supreme Copy and a Medical Acceptance Notice.” (Opinion on Decision, at p. 9.)

Lien claimant’s Petition contends the WCJ may have inadvertently omitted one invoice from her calculations, and that the outstanding sum of partially paid invoices should be \$1,101.39. (Petition, at p. 5:3.) The Petition also contends that defendant’s failure to submit its EORs, as required under section 4622, subd. (a)(1), entitles lien claimant to statutory increase and interest. (*Id.* at p. 5:17.)

Defendant’s Answer asserts that lien claimant waited 12 years to actively prosecute its right to reimbursement, and that the delay prejudiced defendant’s ability to produce responsive evidence. (Answer, at p. 3:26.) Defendant contends that the printout of benefits submitted reflects partial payments and is evidence of defendant’s timely response to the charges in 2013. (*Id.* at p. 4:5.)

The WCJ’s Report identifies, with specificity, the exact invoices, partial payments, and corresponding market rates used by the WCJ in calculating the outstanding amount owed of \$902.84. (Report, at pp. 4-5.) With respect to the issue of statutory increase and interest under section 4622(a), the WCJ observed that neither defendant nor lien claimant had submitted contemporaneous evidence responsive to the issue of whether the parties had complied with the medical-legal dispute resolution protocols set forth in section 4622. The WCJ reasoned that “since neither party produced evidence to substantiate their contentions, this WCJ did not grant penalties and [interest] on the unpaid portions of the partially paid bills.” (Report, at p. 6.)

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 January 2, 2026, and 60 days from the date of transmission is March 3, 2026. This decision is issued by or on March 3, 2026, so that we have timely acted on the petition as required by Labor Code 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 the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on January 2, 2026, and the case was transmitted to the Appeals Board on January 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 January 2, 2026.

II.

Lien claimant initially asserts computational error in the WCJ’s award of \$902.85 arising out of multiple partially paid invoices. Lien claimant contends “[t]he missing amount seems to be

for one of the three (3) invoices with market rate outstanding amount of \$198.00,” and that “[w]hen the remaining amounts of all partially paid invoices (6) are added up, they total correctly \$1,101.39.” (Petition, at p. 5:3.)

The WCJ’s Report, however, provides the calculations used by the WCJ in determining the outstanding balances corresponding to each invoice, including the invoice number, the market rate, and amount paid by defendant. Following our review of the record, we fully concur with the WCJ’s calculations and therefore decline to disturb the Findings of Fact in this regard.

Lien claimant further contends that the WCJ erred in not awarding statutory increase and interest pursuant to section 4622 as it relates to the partially paid invoices in the amount of \$902.84. (Petition, at p. 6:3.)

Section 4622 provides the relevant dispute resolution protocol for medical-legal expenses, and provides in relevant part:

All medical-legal expenses for which the employer is liable shall, upon receipt by the employer of all reports and documents required by the administrative director incident to the services, be paid to whom the funds and expenses are due, as follows:

(a)

(1) Except as provided in subdivision (b), within 60 days after receipt by the employer of each separate, written billing and report, and if payment is not made within this period, that portion of the billed sum then unreasonably unpaid shall be increased by 10 percent, together with interest thereon at the rate of 7 percent per annum retroactive to the date of receipt of the bill and report by the employer. If the employer, within the 60-day period, contests the reasonableness and necessity for incurring the fees, services, and expenses using the explanation of review required by Section 4603.3, payment shall be made within 20 days of the service of an order of the appeals board or the administrative director pursuant to Section 4603.6 directing payment.

(2) The penalty provided for in paragraph (1) shall not apply if both of the following occur:

(A) The employer pays the provider that portion of his or her charges that do not exceed the amount deemed reasonable pursuant to subdivision (e) within 60 days of receipt of the report and itemized billing.

(B) The employer prevails.

(b)

(1) If the provider contests the amount paid, the provider may request a second review within 90 days of the service of the explanation of review. The request for a second review shall be submitted to the employer on a form prescribed by the administrative director and shall include all of the following:

(A) The date of the explanation of review and the claim number or other unique identifying number provided on the explanation of review.

(B) The party or parties requesting the service.

(C) Any item and amount in dispute.

(D) The additional payment requested and the reason therefor.

(E) Any additional information requested in the original explanation of review and any other information provided in support of the additional payment requested.

(2) If the provider does not request a second review within 90 days, the bill will be deemed satisfied and neither the employer nor the employee shall be liable for any further payment.

(3) Within 14 days of the request for second review, the employer shall respond with a final written determination on each of the items or amounts in dispute, including whether additional payment will be made.

(4) If the provider contests the amount paid, after receipt of the second review, the provider shall request an independent bill review as provided for in Section 4603.6.

(Lab. Code, § 4622(a)-(b).)

Section 4622(b)(1) thus requires an automatic statutory increase along with statutory interest unless the defendant responds within the prescribed 60-day period and contests the reasonableness and necessity of the claimed fees, services, or expenses, using the EOR required by section 4603.3. (Lab. Code, § 4622(a)(1).) If the employer timely contests the reasonableness and necessity of the fees incurred, subdivision (b) allows the provider to seek a second review within 90 days of the defendant's EOR. (Lab. Code, § 4622(b)(1).) However, "[i]f the provider does not request a second review within 90 days, the bill will be deemed satisfied and neither the employer nor the employee shall be liable for any further payment." (Lab. Code, § 4622(b)(2).)

The statute further provides a 14-day timeline in which the employer may respond with a “final written determination,” and thereafter, for the parties to proceed to Independent Bill Review (IBR) as provided under section 4603.6. (Lab. Code, § 4622(b)(3)-(4).)

The parties to a medical-legal expense dispute are thus subject to alternating and interdependent obligations as part of the dispute resolution process required by section 4622. Where an employer has received a “separate, written billing and report” detailing a medical-legal expense, the employer that wishes to dispute the reasonableness and necessity of the charges must timely issue an initial EOR. (Lab. Code, § 4622(a)(1).) If the employer fails to satisfy or dispute the charges, the portion of the billing unreasonably unpaid shall be increased by 10 percent together with 7 percent statutory interest.

However, once an employer challenging the reasonableness or necessity of a medical-legal expense has issued a timely EOR, any provider seeking to contest the amount specified in the EOR must timely request a second review. (Lab. Code, § 4622(b)(1).) A failure of timely request for that second review results in billing being “deemed satisfied and neither the employer nor the employee shall be liable for any further payment.” (Lab. Code, § 4622(b)(2).)

Here, the WCJ declined to award the statutory increase and interest authorized under section 4622(b)(2), reasoning that neither the defendant nor lien claimant had submitted evidence responsive to their respective obligations under section 4622. (Report, at p. 6.) The WCJ stated:

[I]n this case, it has been 12 years since the original invoices were first sent to Defendants. At trial Defendants contended that too much time had passed and they no longer have documents in their possession to show they proceeded with the Explanation of Review (EOR). Moreover, Supreme Copy did not provide any evidence that they objected to the amount paid by Defendants. No objection letters were introduced into evidence. Further, Supreme Copy did not provide any documents requesting a second bill review on the unpaid invoices. Since neither party produced evidence to substantiate their contentions, this WCJ did not grant penalties and interests on the unpaid portions of the partially paid bills.

(Report, at p. 6.)

We observe, however, that insofar as defendant has made representations to the court regarding the unavailability of its claimed EOBs from 2013 and advanced similar representations in its pleadings (see Answer, at p. 3:28), these statements constitute, at most, *argument* rather than *evidence*. The evidentiary record discloses no evidence that directly addresses whether defendant met its initial obligations as described in section 4622(a)(1). Similarly, the record is devoid of

evidence responsive to whether lien claimant submitted any timely requests for a second bill review pursuant to section 4622(b)(1).

In *Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc) we explained that, “the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision.” (*Hamilton, supra*, at 475.) The purpose of this requirement is to enable “the parties, and the Board if reconsideration is sought, [to] ascertain the basis for the decision[.]” (*Hamilton, supra*, at 476, citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350].)

Additionally, 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 v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen’s Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) The Appeals Board has the discretionary authority to develop the record when the medical record is not substantial evidence. (Lab. Code, §§ 5701, 5906; *Tyler v. Workers’ Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389 [62 Cal.Comp.Cases 924]; see *McClune v. Workers’ Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117 [63 Cal.Comp.Cases 261].) In our en banc decision in *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2002) 67 Cal.Comp.Cases 138 (Appeals Board en banc), we stated that “[s]ections 5701 and 5906 authorize the WCJ and the Board to obtain additional evidence, including medical evidence, at any time during the proceedings (citations) [but] [b]efore directing augmentation of the medical record . . . the WCJ or the Board must establish as a threshold matter that specific medical opinions are deficient, for example, that they are inaccurate, inconsistent or incomplete.” (*Id.* at p. 141.) The principle of allowing full development of the evidentiary record to enable a complete adjudication of the issues is consistent with due process in connection with workers’ compensation claims. (*Tyler v. Workers Comp. Appeals Bd., supra*, at 928.)

Here, our review of the record does not disclose evidence of the parties’ compliance with the dispute resolution protocol provided for medical-legal expenses under section 4622. Defendant carries the initial burden of establishing that it timely disputed the reasonableness and necessity of

the charges through the issuance of a timely EOR.² To the extent that defendant meets its burden of establishing the timely issuance of EORs, the burden then shifts to the provider to establish a timely request for second bill review. (Lab. Code, § 4622(b).)

Because the record does not contain evidence responsive to the parties' respective burdens of proof under section 4622, we are persuaded that the issue of whether statutory increase and interest attaches to the outstanding amount of the partially paid invoices must be deferred, pending development of the record.

Upon return of this matter to the trial level, we encourage the parties to meet and confer in an effort to reach amicable resolution regarding statutory increase and interest arising out of the partially-paid medical-legal expenses discussed in Finding of Fact No. 5. However, should the parties not be able to resolve the issue, we recommend the WCJ consider development of the record and further proceedings responsive to the issue of statutory increase and interest under section 4622.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the decision of December 5, 2025 Findings and Orders is **GRANTED**.

² Insofar as either party herein seeks relief from their respective burdens of proof under the equitable doctrine of laches, we observe that laches requires unreasonable delay in bringing suit “plus either acquiescence in the act about which plaintiff complains or prejudice to the defendant resulting from the delay.” (*Conti v. Board of Civil Service Commissioners* (1969) 1 Cal.3d 351, 359 [82 Cal.Rptr. 337].) “Prejudice is never presumed; rather it must be *affirmatively demonstrated* by the defendant in order to sustain his burdens of proof and the production of evidence on the issue.” (*Id.* at p. 361, italics added.)

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the December 5, 2025 Findings and Orders is **AFFIRMED**, except that it is **AMENDED** to reflect the following:

FINDINGS OF FACT

...

5. A reasonable fee for the med-legal expenses is found to be \$902.85 for invoices partially paid by Defendant. The issue of any corresponding statutory increase and statutory interest pursuant to Labor Code section 4622(a) is deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 3, 2026

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

**SUPREME COPY SERVICE, INC.
EXCEPTIONALITY, INC.**

SAR/abs

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