

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

MARTHA IBARRA, *Applicant*

vs.

**CITY OF LOS ANGELES;
permissibly self-insured, *Defendants***

**Adjudication Number: ADJ22338563
Los Angeles District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the January 23, 2026 Findings and Award (F&A), wherein the workers' compensation arbitrator (WCA) found in pertinent part that applicant is entitled to new separate periods of temporary disability/Labor Code¹ section 4850 benefits, for the orthopedic injury, except for the period January 27, 2025, through March 10, 2025, because such benefits overlapped and were concurrent for both the heart and orthopedic injuries; applicant is entitled to temporary total disability/section 4850 benefits beginning January 27, 2025, through present and continuing less the period from January 27, 2025, through March 10, 2025, which is an overlap between the heart and orthopedic injuries; only the concurrent periods of disability for both injuries from January 27, 2025, through March 10, 2025, which is an overlap between the heart and orthopedic injuries, will count toward the limitation periods in this orthopedic case pursuant to section 4850 and the 104-week temporary disability limitation.

Defendant contends that applicant is not entitled to new separate periods of temporary disability and section 4850 benefits for her orthopedic injuries.

We did not receive an answer from applicant. The WCA prepared a Report on Reconsideration (Report), recommending that the Petition be denied.

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

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will deny reconsideration.

Preliminarily, we note that 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 March 26, 2026 and 60 days from the date of transmission is Monday, May 25, 2026, a holiday. The next business day that is 60 days from the date of transmission is Tuesday, May 26, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision was issued by or on May 26, 2026, so that we have timely acted on the petition as required by section 5909(a).

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.

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 WCA, the Report was served on February 25, 2026, and the case was transmitted to the Appeals Board March 26, 2026. Service of the Report and transmission of the case to the Appeals Board did not occur on the same day. Thus, we conclude that the parties were not provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) did not provide them with actual notice as to the commencement of the 60-day period on March 26, 2026.

While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on March 26, 2026.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

LISA A. SUSSMAN, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 26, 2026

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

**MARTHA IBARRA
STRAUSSNER, SHERMAN, LONNÉ, TREGER, HELQUIST & KRUPNIK
LOS ANGELES CITY ATTORNEY
MARK L. KAHN, ARBITRATOR**

SL/abs

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

**CITY OF LOS ANGELES & THE LOS ANGELES POLICE PROTECTIVE LEAGUE
ALTERNATIVE DISPUTE PREVENTION AND RESOLUTION PROGRAM
ADR No.:LAPPL-ADR-22581
Claim No.:4078281**

**ARBITRATORS REPORT AND
RECOMMENDATION ON
RECONSIDERATION**

**I.
INTRODUCTION**

The above-captioned matter was set for Arbitration on October 29, 2025, before Mark L. Kahn, Arbitrator and the parties reached Stipulations, and Issues, admitted Exhibits into evidence, testimony was taken and the parties agreed to submit this matter on the present record.

On January 23, 2026, the Arbitrator issue the following Findings and Award”

1. Martha Ibarra, born, [] while employed during the period December 26, 1995, through December 11, 2024, at Los Angeles, California, by the City of Los Angeles Police Department, as police officer, Group 490, sustained an injury arising out of and occurring in the course of employment to her cervical spine and lumbar, spine, thoracic spine, both elbows, both wrists, both hips, both feet, right ear hearing, tinnitus, headaches, hemorrhoids, bruxism and claims sustained an injury arising out of and occurring during the course of her employment to her left ear hearing, pulmonary, asthma, lower GI and dental.

2. On the date of injury, the employer was permissibly self-insured, and the employer was administered by Intercare.

3. At the time of the injury, the employee's earnings were maximum for temporary and permanent disability.

4. The employer has paid some permanent disability advances but has not paid any Labor Code §4850 benefits or temporary disability benefits on this claim.

5. No attorney fees have been paid, and no attorney fee arrangements have been made.

6. The Arbitrator finds Applicant is entitled to new separate periods of temporary disability/LC 4850 benefits, for the orthopedic injury except for the period January 27, 2025,

through March 10, 2025, because such benefits overlapped and were concurrent for both the heart and orthopedic injuries.

7. The Arbitrator finds that the applicant is entitled to temporary total disability/ LC 4850 benefits beginning January 27, 2025, through present and continuing less the period from January 27, 2025, through March 10, 2025, which is an overlapping between the heart and orthopedic injuries.

8. The Arbitrator finds that only the concurrent periods of disability for both injuries from January 27, 2025, through March 10, 2025, which is an overlapping between the heart and orthopedic injuries will count toward the limitation periods in this orthopedic case pursuant to Labor Code §4850 and the 104-week temporary disability limitation.

9. A reasonable attorney fee is found to be 15% of the benefits awarded for temporary disability in an amount to be adjusted between the parties with the arbitrator retaining jurisdiction in case of a dispute.

An Award was made in favor of Martha Ibarra against the City of Los Angeles as follows:

A. Temporary disability in accordance with paragraph 7 above, less reasonable attorney fees as set forth in accordance with paragraph 8 above.

The defendant now files this Petition for Reconsideration on the following grounds:

1. The applicant cannot file successive cumulative trauma injuries and be entitled to temporary disability which could be extended unpredictably for an unidentified number of payments and years in a situation where independent injuries resulted in staggered periods of temporary disability.

2. The applicant is not entitled to a new set of Labor Code §4850/ temporary disability state rate benefits after applicant has exhausted the 104-week limit on temporary disability, while the applicant was receiving benefits for his heart continuous trauma and never suffered a new exposure.

3. The applicant is not entitled to two separate 104-week limitation periods when the period of exposure is the same for both injuries the applicant filed the second continuous trauma claim while still receiving temporary disability on the first claim.

II.

FACTS

The applicant had a myocardial infarction on February 7, 2023.

The applicant had a second myocardial infarction on March 20, 2023.

The applicant became temporary totally disabled for her heart injury on February 8, 2023.

The applicant filed an Application for Adjudication of Claim (LAPPL-ADR-17297) alleging a continuous trauma injury to her heart from November 20, 1995, through February 8, 2023, while employed as a Police Officer for the city of Los Angeles.

The applicant was evaluated by Jeffrey Hrisch, M.D. as Agreed Medical Evaluator in internal medicine on May 7, 2024, who found a continuous trauma injury and that applicant was temporary totally disabled.

In case LAPPL-ADR-17297 (heart case), Labor Code §4850 benefits were paid from February 12, 2023, through March 15, 2024, in the amount of \$133,729.88 and temporary disability state rate benefits from March 16, 2024, through March 14, 2025, mounting two \$84,597.58. 104 weeks of benefits for this claim are exhausted.

On September 8, 2025, applicant Martha Ibarra and the City of Los Angeles entered into a Stipulation with Request for Award, case LAPP -ADR-17297, which provided that the applicant while employed as a Police Officer, from November 20, 1995 through February 8, 2023, by the City of Los Angeles, sustained an injury arising out of an occur in the course of her employment in the form of ischemia with non-obstructive coronary arteries/myocardial infarction with nonobstructive coronary arteries. The stipulation provided as to temporary disability that the applicant had been adequately compensated through date. The injury caused permanent disability of 55% per week payable at \$290.00 per week beginning February 15, 2025. The Award provided for a need for further medical treatment. The Award was approved by the appeals Board on September 22, 2025.

The applicant has been off work since February 2023, for her heart.

The applicant has not returned to work since February 8, 2023.

The applicant filed the second continuous trauma claim on or about December 2024.

While the applicant was off work and receiving temporary disability benefits on the heart claim, the applicant filed a second claim for a cumulative trauma injury for the period December 26, 1995, through December 11, 2024, for injury to the cervical spine and lumbar, spine, thoracic spine, both elbows, both wrists, both hips, both feet, right ear hearing, tinnitus, headaches, hemorrhoids, bruxism and claims sustained an injury arising out of and occurring during the course of her employment to her left ear hearing, pulmonary, asthma, lower GI and dental.

In this second claim, Lapp1-ADR-22581, the parties stipulated that Martha Ibarra, while employed during the period December 26, 1995, through December 11, 2024, at Los Angeles, California, by the City of Los Angeles Police Department, as Police Officer, Group Number 490, sustained an injury arising out of and occurring in the course of employment to her cervical spine and lumbar, spine, thoracic spine, both elbows, both wrists, both hips, both feet, right ear hearing, tinnitus, headaches, hemorrhoids, bruxism and claims sustained an injury arising out of and occurring during the course of her employment to her left ear hearing, pulmonary, asthma, lower GI and dental.

The applicant is not permanent and stationary / MMI for the second continuous trauma claim, and the issue submitted for this decision in this case was whether applicant is entitled to additional period of 4850/TD benefits.

The defendants argued that the applicant is not entitled to additional 4850/temporary disability for the second claim because 104 weeks were paid on the first claim and the applicant never suffered a new exposure because she never returned to work after February 8, 2023.

The applicant argued that the second claim is a new continuous trauma claim and a new injury and the applicant is entitled to a second 104 weeks of 4850/TD benefits.

The Arbitrator ruled that the applicant suffered two separate continuous injuries because the second claim has a different date of injury pursuant to Labor Code §5412 than the first injury, both claims had different mechanisms of injury, both claims involved entirely different parts of the body, the first case the heart case has a final Stipulated Findings and Award with permanent disability and a need for future medical treatment, and in the second claim the applicant is not Permanent and Stationary or Maximum Medical Improved and is Temporarily Totally Disabled, and each case had both separate and distinct periods of temporary disability and a period of concurrent temporary disability according to the medical evidence. (The basis for all these findings is set forth below)

The Arbitrator ruled that because the applicant suffered two separate and distinct injuries, the applicant is entitled to two separate 104-week limitation periods for separate periods of temporary disability for each injury.

The Arbitrator also found that there was a concurrent period of disability for both injuries and that period applied to the 104-week cap for both injuries.

The Arbitrator rejected the defendant's argument that because the applicant never returned to work from the heart attack and had no new employment exposure this is in effect made this one injury with one 104-week limitation period.

The Arbitrator rejected the defendant's argument because the second application was while the applicant was on temporary disability for the second injury this is in effect made this one injury with one 104-week limitation period.

The defendant has now filed this Petition for Reconsideration on the grounds set forth above.

III.

DISCUSSION OF ISSUES AND BASIS FOR DECISION

A.

Evidence

Summary of Testimony Of Martha Ibarra

Her name is Martha Ibarra, and her job title was Police Detective for the Los Angeles Police Office. This is a sworn position. She is still employed with the city.

She is currently off work. She was taken off work by Dr. Rubanenko.

She was first taken off work on January 27, 2025. The physician has kept her off work consistently through the present.

She was taken off work for her workers' compensation injury of a cumulative trauma claim of December 11, 2024.

Dr. Rubanenko is treating her for her back, neck, hands, elbows, feet and hips. She is receiving chiropractic therapy for her back and neck. They can only treat her for one part at a time. She also received treatment for her lower back. The physician is talking to her about other treatments because there is a limitation on chiropractic type of treatments. He is also considering doing acupuncture. She does not remember the name of the other treatment he has suggested.

The acupuncture treatment has not been approved.

Prior to Dr. Rubanenko, she treated her elbows and knees with Gregory Adamson, M.D., who ordered PRP treatment, and they worked, but they stopped approving those treatments. Dr. Rubanenko has also mentioned PRP treatment.

The PRP treatments have recently been denied.

She continues to have pain all over her body. She has pain in her neck, lower back, and knee. She also recently discussed with her primary treating physician the nerve pain that has popped up in her legs that she is really concerned about. She continues to have pain in her arms, and elbows.

She cannot safely and effectively work as a Police Officer because of the ongoing pain. All the pain has limited what she can do and what she used to be able to do.

When asked if Claim number 4078281, is a cumulative trauma that is pled from December 26, 1995 through December 11, 2024 to her neck, elbows, hands, wrists, mid back, low back, hips, feet, hemorrhoids, lower G.I., pulmonary/asthma, dental bruxism, hearing loss/tinnitus migraine headaches and knees, she testified that sounds familiar.

She believes the claim was filed in December 2024.

She was evaluated by Philip Conwisar, M.D., the Agreed Medical Evaluator in orthopedic surgery.

When asked about the report of the Agreed Medical Evaluator showing she was placed on temporary total disability by her treating physician on March 10, 2025, and if that is correct, she thought it was January but would have to go back. Maybe it could have been March 10, she cannot remember.

She has been off work since February 2023. That was for her heart.

She has not returned to work since then.

She has not worked anywhere else since then.

When asked if her other case claim number 4066418 is a date of injury on February 8, 2023, where she felt lightheaded and started having chest pain, and ended up with a diagnosis of myocardial infarction, and if that sounds correct, she said yes.

That is the reason she has been off work since 2023.

She was paid Labor Code §4850 benefits for her heart the first year then the second year she was paid state rate temporary disability.

She filed her claim for the orthopedic injuries while she was off for hard claim.

She was placed off work on temporary disability for orthopedic claim in January 2025. She believes her heart benefits were paid through March 10, 2025.

When asked why she filed an orthopedic claim in December 2024, and if something happened in December 2024 while she was off work for the heart claim, the applicant testified she

had been suffering from the pain in her knees, had surgery on her knees, and still was not better. She explained to her lawyer that she was in a lot of pain in her back, which prevents her from doing a lot of stuff, including her job. She also told her about her back and neck. She was in a lot of pain. The pain wakes her up in the morning. She cannot sleep. She cannot resolve the pain.

She has been receiving medical treatment from Dr. Adamson and is currently under his care. She began seeing him in approximately 2018 or 2019, though she cannot recall the exact date. She sought treatment due to right knee pain, which had been bothering her, and ultimately underwent surgery on her right knee.

She has been receiving treatment for her knees and elbows. She was not put off work at that time. It was not until she saw Dr. Rubanenko for her other pain such as the back and neck.

When asked if she filed the claim in December 2024 because her benefits were running out on her heart claim, she said no. She was going through a lot of pain. She discussed that with their lawyer. He talked about how she was feeling. That is how the injury for the orthopedic claim came.

When asked whether she plans to return to work as a Police Officer in the future, she testified that she wishes she could, but her doctors have advised that she cannot do so at this time due to her heart condition. She further testified that she is unable to return to work because of the multiple medical issues affecting her body

She has not applied for disability retirement.

Dr. Adamson treated her for her elbows and knees. He was treating her for her prior close claims of cumulative injury through May 19, 2014, and her prior close claim of cumulative trauma through February 11, 2020, under a future medical ward. Dr. Rubanenko is treating her under her open claim of trauma claim of December 11, 2024, and her future medical awards.

When asked if she is claiming elbows in the cumulative trauma through December 11, 2024, she said yes that's part because her elbows have gotten worse.

The only parts of the body Dr. Adamson have treated her for are her knees and elbows.

PRIOR AWARD

On September 8, 2025, applicant Martha Ibarra and the City of Los Angeles entered into a Stipulation with Request for Award which provided that the applicant while employed as a Police Officer, from November 20, 1995 through February 8, 2023, by the City of Los Angeles, sustained an injury arising out of an occur in the course of her employment in the form of ischemia with non-obstructive coronary arteries/myocardial infarction with nonobstructive coronary arteries. The

stipulation provided as to temporary disability that the applicant had been adequately compensated through date. The injury caused permanent disability of 55% per week, payable at \$290.00 per week beginning February 15, 2025. The award provided for a need for further medical treatment. The Award was approved by the appeals board on September 22, 2025.

BENEFIT PRINTOUT

The benefit print out establishes the applicant was paid IOD/4850 from February 12, 2023, through March 23, 2024, in claim number 4066418.

The benefit print out establishes the applicant was paid temporary disability from March 16, 2024, through March 14, 2025, in claim number 4066418.

MEDICAL EVIDENCE DISCUSSED ONLY AS TO THE ISSUES IN THIS ARBITRATION.

The medical report of Jeff Hirsch, M.D., dated June 20, 2023

The physician evaluated the applicant as an Agreed Medical Evaluator in internal medicine. The physician found an industrial injury to the heart. The physician found the applicant was entitled to the presumption of Labor Code §3212.5. The physician found the applicant is unfit to return to work. The applicant was temporarily totally disabled on an industrial basis since her last day of work, February 7, 2023.

Medical report of Jeff Hirsch, M.D., dated May 7, 2024

History indicates that the applicant describes a continuation of the same medical problems for which she was previously evaluated less than one year ago. The applicant continues to receive treatment. The physician concludes the applicant has not reached Maximum Medical Improvement. The applicant is not permanent and stationary currently. The applicant has been temporarily totally disabled on an industrial basis since her last day of work on February 7, 2023.

Medical report of Jeff Hirsch, M.D., dated April 7, 2025 (Date of evaluation March 10, 2025)

The history indicates the applicant has not returned to work since the evaluation in his office on April 9, 2024. She last worked on February 7, 2023. The applicant states that her cardiovascular status is unchanged. The report finds the applicant permanent and stationary for industrial disability rating purposes from an internal medical standpoint. The applicant has reached Maximum Medical Improvement as of the date of this evaluation.

**THE PRIMARY TREATING PHYSICIAN REPORTS FROM GABRIEL RUBANENKO,
DATED AUGUST 13, 2025; SEPTEMBER 24, 2025; AND NOVEMBER 5, 2025.**

August 13, 2025

Off work note. The applicant is on temporary disability from August 13, 2025, through September 24, 2025. The applicant is in need of current medical treatment.

September 24, 2025

Primary Treating Physician's Progress Report. The applicant has subjective complaints of the neck, lumbar spine, thoracic spine, left elbow, right elbow, left wrist, right wrist, left hand, right hand, and left and right foot. Applicant's work status is temporary totally disabled from September [2]4, 2025, until November 5, 2025, and is in current need of medical treatment.

November 5, 2025

Primary Treating Progress Report. The applicant has subjective complaints of the neck, lumbar spine, thoracic spine, left arm, right arm, left wrist, right wrist, and right ankle and left ankle. The applicant is temporarily totally disabled from November 5, 2025, through December 11, 2025. The applicant is in need of current medical treatment.

THE AME REPORT OF PHILIP CONWISAR DATED JUNE 23, 2025.

The applicant was evaluated in the capacity of Agreed Medical Evaluator.

The history indicates the applicant states she sustained a cumulative trauma injury through December 11, 2024, while employed by the Los Angeles Police Department. She has been employed by the police department for 29 years. Her date of hire was December 26, 1995, she is not working at the present time. She has been off work since 2023.

During the applicant's early career, when she was wearing her gun belt and doing patrol duties, the applicant developed pain in her bilateral elbows and upper extremities beginning in 2013. She had treatment in 2014, including a cortisone injection. She had a surgery consultation in 2018 and had additional cortisone injections.

Since 2016, she has worked as a Detective performing prolonged standing, investigations, as well as extensive administrative duties, causing neck, bilateral elbow, wrist, and hand pain.

Proximally five years ago, she noted increasing pain in the hips and feet.

The applicant began treatment with Dr. [Rubanenko] in January 2025. She has done some chiropractic therapy but has had no additional treatment.

The applicant has present symptoms to the neck, right elbow, left elbow, right wrist, left wrist, right hand, left hand, mid back, low back, right hip, left hip, right knee, left knee, right foot, and left foot.

The physician finds it is reasonably medically probable that her work activities contributed to the injuries. He would consider these injuries to be industrial causation due to cumulative trauma injury on December 11, 2024.

The applicant is not working at the present time. The applicant was placed on temporary total disability by her primary treating physician on March 10, 2025.

He recommends a re-examination when she has completed treatment.

B.

LAW

Guimaraes v. County of Los Angeles, (2025 Cal. Wrk. Comp. P.D. LEXIS 211)

The WCAB held that a firefighter was entitled to a separate period of LC 4850 salary continuation benefits for a second, distinct industrial injury, even after exhausting the one-year maximum for a prior injury.

The applicant sustained a specific injury Sept. 1, 2022, to the left shoulder and elbow, and the temporary disability for that injury started Oct. 9, 2022.

He later filed a claim for a cumulative trauma injury through June 12, 2023, to the right hand and left upper extremity, but he received no treatment for his hand prior to filing the claim.

The applicant was evaluated for the hand injury on Aug. 10, 2023, and was provided with temporary work restrictions related only to the right hand.

The WCAB explained that entitlement to LC 4850 benefits is determined by the time period of disability, not by the existence of common injured body parts between claims.

Although the period of overlapping disability from August 10, 2023, to October 09, 2023, counted against the benefit maximum for both injuries simultaneously, it did not eliminate the applicant's right to collect the remaining LC 4850 benefits available for the second injury for the subsequent period of disability that did not overlap.

The Board indicated that this case was distinguishable from Foster v. W.C.A.B. (2008) 161 Cal. App. 4th 1505, 75 Cal. Rptr. 3d 272, 73 Cal. Comp. Cases 466, because although applicant's period of temporary disability from each of his injuries overlapped, they did

not run completely concurrently as occurred in Foster, and that WCJ's interpretation regarding applicant's entitlement to Labor Code § 4850 benefits for his two injuries was consistent with wage replacement public policy behind payment of temporary disability benefits as well as mandate of Labor Code § 4656(c) that employee cannot receive more than 104 weeks of benefits for single injury.

In the Guimaraes the WCAB indicate that pursuant to Labor Code §4850 and decisional authority in City of Lompoc v. WCAB (writ denied), 49 Cal. Comp. Cases 248, and City of Montclair v. WCAB (writ denied), 66 Cal. Comp. Cases 899, applicant is separately and independently entitled to §4850 benefits as the result of each claim. In accordance with Cardoza v. County of Alameda, 2018 Cal. Wrk. Comp. P.D. LEXIS 279, for those periods during which applicant is concurrently disabled from multiple injuries, applicant is not separately entitled to §4850 pay.

Labor Code section 5412. The date of injury in cases of occupational diseases or cumulative injuries is that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment.

Labor Code section 4656(c)(1) provides that for injuries occurring on or after April 19, 2004, "temporary disability shall not extend for more than 104 weeks within a period of two years from the date of commencement of temporary disability payment.

The statute was amended for injuries occurring after Jan. 1, 2008, to allow for 104 weeks of payments within five years from the date of injury.

C.

DISCUSSION OF ISSUES

The Arbitrator ruled that the applicant suffered two separate continuous injuries because the second claim has a different date of injury pursuant to Labor Code §5412, then the first injury, both claims had different mechanisms of injury, both claims involved entirely different parts of the body, the first case the heart case has a final Stipulated Findings and Award with permanent disability and a need for future medical treatment, and in the second claim the applicant is not P&S/MMI and is temporarily totally disabled, and each case had both separate and distinct periods of temporary disability and a period of concurrent temporary disability according to the medical evidence. (The basis for these findings is set forth below)

The Arbitrator ruled that because the applicant suffered two separate claims, one a heart continuous trauma claims and the second a continuous trauma claim orthopedic and other parts of the body, not including the heart, with different dates of injury the applicant is entitled to two separate 104-week limitation periods.

The Arbitrator also found that there was a concurrent period of disability for both injuries and the period applied to the 104-week cap for both injuries.

The Arbitrator rejected the defendant's argument that because the applicant never returned to work from the heart attack and had no new employment exposure this is in effect one injury with on 104-week limitation period and because the applicant filed the second continuous trauma claim while on temporary disability for the first claim this was in effect one injury with 104 limitation period.

The following are the basis the Arbitrator finding two separate and distinct continuous trauma injuries, each having a separate 104-week limitation period for temporary disability except for concurrent periods of temporary disability for both cases.

There are two separate dates of injury and two separate continuous trauma injuries pursuant to Labor Code §5412.

Labor Code §5412. Provides that the date of injury in cases of occupational diseases or cumulative injuries is that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment.

In the first case, the heart case, the applicant suffered temporary disability when he went had a myocardial infarction on February 7, 2023, and went off work on February 8, 2023.

The applicant first had legal knowledge his hear injury was industrial when he filed the application or at the latest when he saw the Agreed Medical Evaluator Dr Hisch on June 20, 2023.

The parties stipulated in the Award to a date of injury of November 20, 1995, through February 8, 2023.

The Arbitrator found the date of injury for the first continuous trauma is either June 20, 2023, or February 8, 2023.

As to the second continuous trauma injury, the applicant filed the second continuous trauma Application on or about December 2024. Therefore, the applicant had legal knowledge her orthoepic injuries were work related in December 2024.

The medical evidence establishes because of the orthopedic injury the applicant became Temporally Totally Disabled on January 27, 2025, and as of December 11, 2025, remains Temporally Totally Disabled and continuing.

Therefore, the date of injury of the second continuous trauma claim is January 27, 2025, with the concurrence of disability plus knowledge pursuant to Labor Code §5412.

In this second claim, Lappl-adr-22581, the parties stipulated that Martha Ibarra, while employed during the period December 26, 1995, through December 11, 2024.

The Arbitrator therefore found each of the two continuous trauma injuries had separate dates of injuries as set forth above.

Each case had separate mechanism of injury:

According to the medical evidence, for the heart continuous trauma injury the mechanism of injury was the emotional stress and pressure of the applicants' duties as a Police Officer.

According to the medical evidence for the orthopedic continuous trauma injury the mechanism of injury was the physical stress of the applicants' duties as a Police Officer.

According to the medical evidence for the hearing and tinnitus was caused by noise exposure because of her duties as a Police Officer.

According to the medical evidence her hemorrhoids were caused by sitting in her duties as a Police Officer.

According to the medical evidence her asthma and pulmonary issue were caused by exposure to pollutants in her duties as a Police Officer.

The applicant claims to have sustained an injury arising out of and occurring in the course of her employment to her lower GI and dental, and the mechanism of these injuries have not been determined.

The above establishes that mechanism for the first continuous trauma and the second trauma are totally different.

Each case had different parts of the body injured.

In the first case the Award provides that on September 8, 2025, applicant Martha Ibarra and the City of Los Angeles entered into a Stipulation with Request for Award which provided that the applicant while employed as a Police Officer from November 20, 1995 through February 8, 2023, by the City of Los Angeles, sustained an injury arising out of an occur in the course of

her employment in the form of ischemia with non-obstructive coronary arteries/myocardial infarction with non-obstructive coronary arteries. The stipulation provided as to temporary disability that the applicant had been adequately compensated through date. The injury caused permanent disability of 55% per week payable at \$290.00 per week beginning February 15, 2025. The Award provided for a need for further medical treatment. The Award was approved by the appeals Board on September 22, 2025.

In this case, the second case, the parties stipulated that Martha Ibarra, born, January 7, 1974 while employed during the period December 26, 1995, through December 11, 2024, at Los Angeles, California, by the City of Los Angeles Police Department, as Police Officer, Group 490, sustained an injury arising out of and occurring in the course of employment to her cervical spine and lumbar, spine, thoracic spine, both elbows, both wrists, both hips, both feet, right ear hearing, tinnitus, headaches, hemorrhoids, bruxism and claims sustained an injury arising out of and occurring during the course of her employment to her left ear hearing, pulmonary, asthma, lower GI and dental.

The Medical evidence discussed above supports that each injury resulted in injury to different parts of the body injured in each case.

The Arbitrator found that each injury resulted in injury to separate parts of the body.

Each case has separate status and has or will have separate Awards

The first case has a Stipulated Award. On September 8, 2025, applicant Martha Ibarra and the City of Los Angeles entered into a Stipulation with Request for Award which provided that the applicant while employed as a Police Officer, from November 20, 1995 through February 8, 2023, by the City of Los Angeles, sustained an injury arising out of an occur in the course of her employment in the form of ischemia with non-obstructive coronary arteries/myocardial infarction with nonobstructive coronary arteries. The stipulation provided as to temporary disability that the applicant had been adequately compensated through date. The injury caused permanent disability of 55% per week payable at \$290.00 per week beginning February 15, 2025. The award provided for a need for further medical treatment. The Award was approved by the appeals board on September 22, 2025.

For the second case the Arbitrator found the applicant was not P and S/MMI and is entitled to temporary total disability/ LC 4850 benefits beginning January 27, 2025, through present and continuing less the period from January 27, 2025, through March 10, 2025, which is an overlapping

between the heart and orthopedic injuries and the applicant is in need of continuing medical treatment.

The heart case has a final Stipulated Award.

For the second case the applicant is not yet P and S/MMI. A second Award will eventually issue, as most body parts are admitted and the medicals establishes there is permanent disability.

Therefore, each of the continuous trauma's cases will have a separate Award and not one single Award, which establishes these are two separate and distinct industrial injuries.

Temporary disability/Labor Code §4850 benefits for the period January 27, 2025, to present and continuing.

Whether the applicant is owed Labor Code §4850/temporary disability rate considering the fact the applicant exhausted two years of benefits in claim 4066418.

The defendant citing the case of *Foster* (above) claims the applicant is entitled to no additional Labor Code §4850 benefits or temporary disability benefits as 104 limitation was exhausted by the payments in the heart case which limit applies to the present orthopedic claim.

The attorney for the applicant argues the applicant is entitled to a separate 104-week limitation period because two injuries are separate and distinct injuries, one to the heart and one orthopedic in nature and with other body parts other than heart, with different dates of injury.

Based upon the Award in case 4668418/LAPPL-ADR-17297 the applicant sustained a cumulative trauma injury to heart.

The benefit print out establishes the applicant was paid IOD/4850 from February 12, 2023, through March 23, 2024, in claim number 4066418.

The benefit print out establishes the applicant was paid temporary disability from March 16, 2024, through March 14, 2025, in claim number 4066418.

The applicant in this case sustained an admitted injury during the period December 26, 1995, through December 11, 2024 to her cervical spine and lumbar, spine, thoracic spine, both elbows, both wrists, both hips, both feet, right ear hearing, tinnitus, headaches, hemorrhoids, bruxism and claims sustained an injury arising out of and occurring during the course of her employment to her left ear hearing, pulmonary, asthma, lower GI and dental while employed by the City of Los Angeles as a Police Officer.

The employer has paid some permanent disability advances but has not paid any Labor Code §4850 benefits or temporary disability benefits on this claim.

According to the evidence, because of the heart injury the applicant went off work on February 7, 2023. According to medical evidence, the heart case became permanent and stationary when the applicant was evaluated by Dr. Hirsch on March 10, 2025, and temporary disability ended on March 14, 2025.

In this orthopedic continuous trauma injury according to the medical evidence the applicant became temporarily totally disabled on January 27, 2025.

The medical evidence establishes the applicant from January 27, 2025, though November 5, 2025, and through December 11, 2025, the applicant remains temporarily totally disabled.

Therefore, the medical evidence establishes because of the orthopedic injury the applicant became temporarily totally disabled on January 27, 2025, and as of December 11, 2025, remains temporary totally disabled and continuing.

The issue then presented is whether in accordance with the *Foster* case did the applicant exhaust all their 4850 and temporary disability benefits by the payments made by defendant in the heart case.

The Arbitrator finds that the case of *Guimaraes v. County of Los Angeles*, (2025 Cal. Wrk. Comp. P.D. LEXIS 211) is Applicable to the facts of this case.

In that case the WCAB explained that entitlement to LC 4850 benefits is determined by the time period of disability, not by the existence of common injured body parts between claims.

Although the period of overlapping disability from August 10, 2023, to October 09, 2023, counted against the benefit maximum for both injuries simultaneously, it did not eliminate the applicant's right to collect the remaining LC 4850 benefits available for the second injury for the subsequent period of disability that did not overlap.

The Board indicated that this case was distinguishable from *Foster v. W.C.A.B.* (2008) 161 Cal. App. 4th 1505, 75 Cal. Rptr. 3d 272, 73 Cal. Comp. Cases 466, because although applicant's period of temporary disability from each of his injuries overlapped, they did not run completely concurrently as occurred in *Foster*, and that WCJ's interpretation regarding applicant's entitlement to Labor Code § 4850 benefits for his two injuries was consistent with wage replacement public policy behind payment of temporary disability benefits as well as mandate of Labor Code § 4656(c) that employee cannot receive more than 104 weeks of benefits for single injury.

The WCAB indicate that pursuant to Labor Code §4850 and decisional authority in *City of Lompoc v. WCAB (writ denied)*, 49 Cal. Comp. Cases 248, and *City of Montclair v. WCAB (writ denied)*, 66 Cal. Comp. Cases 899, applicant is separately and independently entitled to §4850 benefits as the result of each claim. In accordance with *Cardoza v. County of Alameda*, 2018 Cal. Wrk. Comp. P.D. LEXIS 279, for those periods during which applicant is concurrently disabled from multiple injuries, applicant is not separately entitled to §4850 pay.

The facts of this case establish there was a concurrent period of temporary disability for the period January 27, 2025, through March 10, 2025, for both heart and orthopedic injuries.

Beginning March 11, 2025, through present and continuing there is a separate and distinct period of temporary disability only for the orthopedic injury.

The Arbitrator finds Applicant is entitled to new separate periods of temporary disability/LC 4850 benefits, for the orthopedic injury except for the period January 27, 2025, through March 10, 2025, because such benefits overlapped and were concurrent for both the heart and orthopedic injuries.

The Arbitrator finds that the applicant is entitled to temporary total disability/ LC 4850 benefits beginning January 27, 2025, through present and continuing less the period from January 27, 2025, through March 10, 2025, which is an overlapping between the heart and orthopedic injuries.

The Arbitrator finds that only the concurrent periods of disability for both injuries from January 27, 2025, through March 10, 2025, which is an overlapping between the heart and orthopedic injuries will count toward the limitation periods in this orthopedic case pursuant to Labor Code §4850 and the 104-week temporary disability limitation.

A reasonable attorney fee was found to be 15% of the benefits awarded for temporary disability in an amount to be adjusted between the parties with the arbitrator retaining jurisdiction in case of a dispute.

CONCLUSION

The Arbitrator finds that the applicant suffered two separate and distinct continuous injuries because the second claim has a different date of injury pursuant to Labor Code §5412, than the first injury, both cases had different mechanism of injury, both claims involved entirely different parts of the body, the first case the heart case has a final Stipulated Findings and Award with permanent disability and a need for future medical treatment, and in the second claim the

applicant is not P&S/MMI and is temporarily totally disabled, and each case had both separate and distinct periods of temporary disability and a period of concurrent temporary disability according to the medical evidence. (The basis for these findings is set forth below)

The Arbitrator ruled that because the applicant suffered two separate claims, one a heart continuous trauma claims and the second a continuous trauma claim orthopedic and other parts of the body, not including the heart, with different dates of injury the applicant is entitled to two separate 104-week limitation periods.

The Arbitrator also found that there was a concurrent period of disability for both injuries and that period applied to the 104-week limit for both injuries.

The Arbitrator rejected the defendant's argument that because the applicant never returned to work from the heart attack and had no new employment exposure and filed the second continuous trauma claim while being paid temporary disability for the heart claim, this is in effect make both cases one injury with one 104-week limitation period.

IV **RECOMMENDATION**

For the foregoing it is recommended that reconsideration be denied.

DATED: February 25, 2026

RESPECTFULLY SUBMITTED,
BY: MARK L. KAHN
ARBITRATOR