WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

MARY RAMOS, ***Applicant***

vs.

PROVIDENCE MEDICAL FOUNDATION;
CORVEL SACRAMENTO, ***Defendants***

Adjudication Number: ADJ20567579; ADJ20905066
Anaheim District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Defendant seeks reconsideration of the Findings and Order issued by the workers' compensation administrative law judge (WCJ) in Case No. ADJ20905066 on February 17, 2026. Therein, the WCJ found that applicant sustained injury arising out of and occurring in the course of employment (AOE/COE) to the back while employed on August 22, 2017. The WCJ further found that defendant did not meet its burden of proof as to the application of the statute of limitations and that applicant's claim is not barred by the statute of limitations.

Defendant contends that the WCJ erred in finding that applicant's claim is not barred by the statute of limitation. Defendant argues that it did not enter evidence of the notices it issued pursuant to Labor Code section 5401 because applicant did not raise defendant's failure to give proper notices at the time of trial.

Applicant filed an Answer. The WCJ issued a Report and Recommendation by Workers' Compensation Judge on Petition for Reconsideration recommending that the Petition for Reconsideration be dismissed as untimely or denied on the merits.

We have considered the Petition for Reconsideration, the Answer, 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 defendant's 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.

We first address the timeliness of defendant's petition. There are 25 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10940(a), 10615(b).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers' Comp. Appeals Bd*. (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

In this case, the WCJ issued the decision on February 17, 2026. Based on the authority cited above, defendant had until Monday, March 16, 2026 to file a timely Petition for Reconsideration. Defendant filed a Petition for Reconsideration listing Case No. ADJ20567579, the wrong case number, in the caption on March 6, 2026. On April 13, 2026, defendant filed an Amended Petition for Reconsideration in Case No. ADJ20905066 to correct the case number listed on the caption of the Petition for Reconsideration filed on March 6, 2026. Pursuant to WCAB Rule 10617[2], we accept defendant's Petition for Reconsideration as timely filed in Case No. ADJ20905066.

---

[1] All further statutory references are to the Labor Code, unless otherwise noted.

[2] WCAB Rule 10617 states, in relevant part, that "(a) An Application for Adjudication of Claim, a petition for reconsideration, a petition to reopen or any other petition or other document that is subject to a statute of limitations or a jurisdictional time limitation shall not be rejected for filing solely on the basis that … (2) The document has been submitted without the proper form, or it has been submitted with a form that is either incomplete or contains inaccurate information…. (Cal. Code Regs., tit. 8, § 10617(a)(2).)

II.

Next, 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 March 23, 2026 and 60 days from the date of transmission is May 22, 2026. This decision is issued by or on May 22, 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 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 March 23, 2026, and the case was transmitted to the Appeals Board on March 23, 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 March 23, 2026.

III.

The WCJ provided the following discussion in the April 28, 2026 Report:

STATEMENT OF FACTS

Applicant filed an Application for Adjudication of Claim on 5/7/25, alleging a specific injury of 8/22/17 to her back. EAMS Doc ID 57792178. Applicant alleges she submitted a claim form, which was accepted by defendant on 12/5/17. Applicant's Exhibit 1. Defendant provided treatment and administered the claim. Defendant's Exhibit B.

On 2/12/19, Dr. Germanovich issued a medical report, finding Applicant had reached maximal medical improvement and afforded her future medical care. Defendant served the report on Applicant with a "Notice Regarding Permanent Disability Benefits Denial" letter on 8/29/19. The letter advised Applicant that she may contact Information and Assistance officer to have the report reviewed and rated, and she may request a Qualified Medical evaluator; additional information could be found in the Guidebook. Applicant's Exhibit 2. On 11/26/19, defendant sent a letter to Applicant inquiring whether the Applicant wanted to "buy-out" future medical care and advised her that her claim had been finalized but she had the option of an early buy-out of her future medical care. Applicant's Exhibit 3.

Applicant retained counsel approximately 5/7/25, at which time, her attorney filed an Application for Adjudication of Claim. Upon the filing of the Application, defendant recommended denying the claim based on the Statute of Limitations. Defendant's Exhibit A.

On 10/14/25, Applicant filed a Declaration of Readiness to Proceed to Expedited Hearing on the issue of lack of authorization. The Expedited Hearing took place on 11/12/25 before Judge Alan Skelly. MOH, EAMS Doc ID 79758029. Judge Skelly noted that it was a denied claim and parties agreed to continue the matter to an MSC on the issue of statute of limitations. At the MSC, parties set the matter for trial. Trial was held on 1/20/26 and parties submitted on documentary evidence.

After reviewing the evidence, the court found defendant did not meet its burden of proof as to the application of the statute of limitations and Applicant's claim was not barred. It is from this finding that defendant petitions for Reconsideration.

(Report, 4/28/26, at pp. 1-2, emphasis omitted.)

IV.

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

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 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 Hospital v. Workers' Comp. Appeals Bd.* (*Bolton*) (1983) 34 Cal.3d 159, 164 [48 Cal.Comp.Cases 566], emphasis removed and citations omitted.)

> The period within which proceedings may be commenced for the collection of the benefits provided by Article 2 (commencing with Section 4600) or Article 3 (commencing with Section 4650), or both, of Chapter 2 of Part 2 is one year from any of the following:
>
> (a) The date of injury.
>
> (b) The expiration of any period covered by payment under Article 3 (commencing with Section 4650) of Chapter 2 of Part 2.
>
> (c) The last date on which any benefits provided for in Article 2 (commencing with Section 4600) of Chapter 2 of Part 2 were furnished.
>
> (Lab. Code, § 5405.)

The statute of limitations is an affirmative defense, and therefore, the burden of proof rests with defendant. (Lab. Code, §§ 5409, 5705.) The burden is on defendant to show when the statute of limitations began to run, "starting from any and all three points designated [in Labor Code section 5405]." (*Colonial Ins. Co. v. Industrial Acc. Com. (Nickles)* (1945) 27 Cal.2d 437, 441 [10 Cal.Comp.Cases 321].) On the other hand, "as a general rule, where a claimant asserts exemptions, exceptions, or other matters which will avoid the statute of limitations, the burden is on the

claimant to produce evidence sufficient to prove such avoidance." (*Permanente Medical Group v. Workers' Comp. Appeals Bd. (Williams)* (1985) 171 Cal.App.3d 1171, 1184 [50 Cal.Comp.Cases 491].) "If statutes of limitation are subject to conflicting interpretations, one beneficial and the other detrimental to the employee, section 3202 requires that they be construed favorably to the employee. (*Colonial Ins. Co. v. Ind. Acc. Com*. (1945) 27 Cal.2d 437 [164 P.2d 490].)" (*City of Fresno v. Workers' Comp. Appeals Bd. (Johnson)* (1985) 163 Cal.App.3d 467, 471 [50 Cal.Comp.Cases 53].)

The purpose of the "tolling" provisions inherent in section 5405, subdivisions (b) and (c), "'is the protection of the injured employee from being lulled into a sense of security by voluntary payments of benefits until the time to commence formal proceedings with the commission has expired.' (citations omitted)" (*Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Webb)* (1977) 19 Cal.3d 329, 333 [42 Cal.Comp.Cases 302].) In other words, subdivisions (b) and (c) "prevent a potential claimant from being misled by an employer's voluntary acts which reasonably indicate an acceptance of responsibility for the employee's injury." (*Webb, supra*, 19 Cal.3d at p. 334.) This is because "payment may 'lull [the claimant] … into false hopes and cause him to delay presenting his claim …'" (*Id*. quoting *Morrison v. Indus. Acci. Com*., 29 Cal.App.2d 528, 537, 85 P.2d 186, 1938 Cal.App. LEXIS 375,].)

An employer's duty to notify an injured worker is specific and extensive and can be found in Rules 9810 et seq. (Cal. Code Regs., tit. 8, § 9810, et seq.).

> The clear purpose of these rules is to protect and preserve the rights of an injured employee who may be ignorant of the procedures or, indeed, the very existence of the workmen's compensation law. Since the employer is generally in a better position to be aware of the employee's rights, it is proper that he should be charged with the responsibility of notifying the employee …
>
> …
>
> Since PG&E was obligated to give the notices prescribed by the administrative rules and failed to do so, it may not raise the technical defense of the statute of limitations to defeat petitioner's claim.
>
> (*Reynolds v. Workmen's Comp. Appeals Bd*. (1974) 12 Cal.3d 726, 729–730 [39 Cal.Comp.Cases 768].)

Here, it is unclear from our preliminary review that the record has been sufficiently developed as to the applicability of the statute of limitation. Based on our review, we are not

persuaded that the record is properly developed. 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.

V.

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.

VI.

Accordingly, we grant defendant'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 defendant'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/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 22, 2026

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

MARY RAMOS
JEFFREY BIGONGER
KMC LAW

PAG/bp

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