WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

ROBERT FLORES, ***Applicant***

vs.

SOUTHWESTERN COLLEGE; KEENAN ASSOCIATES RIVERSIDE, ***Defendants***

Adjudication Number: ADJ7864220
San Diego District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration[1] in this matter to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration. Having completed our review, we now issue our Decision After Reconsideration.

Applicant seeks reconsideration of the April 11, 2022 Findings and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a coach on March 11, 2011 sustained industrial injury to his left knee. The WCJ found in relevant part that the November 30, 2020 Independent Medical Review (IMR) determination complied with Labor Code[2] section 4610.5(c)(2), and that the Administrative Director (AD) through IMR need not provide a copy of all references to the treatment under review contained in the medical evidence.

Applicant contends that the Legislature intended to remove the medical hierarchy requirement from its definition of medical necessity as set forth in section 4610.5(c)(2), and that the requested treatment reviewed by Utilization Review (UR) and IMR is not addressed in the Medical Treatment Utilization Scheduled (MTUS), and that to the extent that the treatment is addressed in the Official Disability Guidelines (ODG), the prescribing physician has successfully rebutted the guidelines. Applicant further contends to the definition of "medical necessity" now

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[1] Commissioner Sweeney, who was previously a member of this panel, no longer serves on the Workers' Compensation Appeals Board. Another panelist has been substituted in her place.

[2] All further references are to the Labor Code unless otherwise noted.

includes all medical evidence standards specified in section 4610.5(c)(2) without ranking or preference.

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 Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will affirm the F&O.

FACTS

Applicant sustained injury to his left knee while employed as a coach by defendant Southwestern College on March 11, 2011. The parties resolved the case in chief by way of Stipulated Award, issued on August 21, 2012.

On October 14, 2020, applicant's primary treating physician Thomas Harris, M.D., submitted a Request for Authorization (RFA) seeking "ultrasound guided PRP injection to the left knee." (Ex. 4, RFA, dated October 14, 2020, at p. 1.)

On October 22, 2020, defendant's UR provider issued a determination recommending defendant non-certify the requested treatment. (Ex. 11, Utilization Review Denial Notice, dated October 22, 2020, at p. 1.) Applicant was noted to be 69 years of age at the time of the request, and that phone calls to the prescribing physician's office had been placed with messages left, but no return calls received. The decision states that per the California MTUS, PRP injections are "neither recommended nor not recommended for treatment of moderate to severe knee osteoarthrosis … [t]he California MTUS does not provide any recommendation." (*Id.* at p. 2.) The reviewer then referenced the ODG, which states:

> The ODG state that several conditions where PRP is not recommended as first-line treatment but may be considered as a second-line option only when specific criteria are met. The guideline does not recommend PRP for knee conditions including osteoarthritis (OA). It may be considered as a second-line treatment option for chronic and persistent refractory knee pain due to early OA in patients younger than age 50 who have not responded to conservative non-pharmacologic and pharmacologic treatments including failed aspiration and injection of intra-articular corticosteroid. A single injection of highly concentrated LP-PRP, generally delivered without fluoroscopic or ultrasound guidance, can be repeated after 12 months with documentation of significant

> relief lasting over 6 months. Based on the submitted records and corresponding guidelines, it appears the request for a platelet-rich plasma injection with ultrasound guidance is not warranted at this time … the guideline does not recommend platelet rich plasma injection as treatment for moderate to severe osteoarthritis. It may be considered as a second-line treatment option for chronic and persistent refractory knee pain due to early OA in patients younger than age 50 who have not responded to conservative treatments. Given this scenario, the prospective request for 1 left knee platelet rich plasma injection under ultrasound guidance is non-certified.

(*Id.* at p. 3.)

Applicant appealed the October 22, 2020 UR decision to IMR.

On November 30, 2020, IMR upheld the UR decision. (Ex. 12, Independent Medical Review Determination, dated November 30, 2020.) The IMR decision noted a review of the application for IMR, the underlying UR decision, the MTUS, and medical records from Thomas Harris, M.D., from June 24, 2020 to October 14, 2020. (*Id.* at p. 2.) The IMR reviewer acknowledged that the "MTUS Guidelines state that there is no recommendation for platelet rich plasma injections for knee osteoarthritis." (*Id.* at p. 3.) The reviewer further noted, however, that:

> MTUS states evaluation of the patient prior to the initiation of treatment should include documentation regarding objective physical findings and current functional abilities both at home and at work. This should include a clear statement regarding what objective or functional goals are to be achieved through the use of treatment. These measures should be tracked during treatment and evidence of progress towards meeting these functional goals should be sought. MTUS states ADLs involve caring for oneself through dressing, grooming, feeding, etc., while IADLs involve functional activities such as using the telephone, shopping, housekeeping, food preparation, transportation outside the home, responsibility for taking medications, and the ability to handle finances. Within the documentation available for review, there are no recent and clear indications of any specific objective treatment goals; and no current and complete objective functional abilities for at home and at work. Furthermore, the request is for a treatment that is not supported by MTUS. No special circumstances and exceptional factors were noted recently that would supersede and disregard the recommendations. As such, the currently requested Platelet rich plasma injection, left knee #1, is not medically necessary.

(*Ibid*.)

On December 29, 2020, applicant filed a petition before the Workers' Compensation Appeals Board (WCAB) contending the AD acted without or in excess of its powers and that the IMR determination was the result of plainly erroneous express or implied finding of fact and the

mistake of fact is a matter of ordinary knowledge and not a matter subject to expert opinion. (Lab. Code, § 4610.6(h).) Applicant's appeal observed the "MTUS does not provide any recommendation regarding the use of Platelet-rich plasma injections," but contended the IMR reviewer failed to consider the other "standards provided for in California Labor Code § 4610.5(c)(2)(B)-(E)." (Petition Appealing Administrative Director's Independent Medical Review Determination (IMR Appeal), dated December 29, 2020, at p. 6:17.) Accordingly, applicant contended that the AD "has not completely complied with the conditions of California Labor Code § 4610.5(c)(2) nor provided a full analysis as required by Labor Code 4610.6(c), (e) and (f)." (*Id.* at p. 6:20.) Applicant also contended that inasmuch as the MTUS does not specifically make a recommendation with respect to PRP injections, the AD incorrectly applied the MTUS by interpreting the "no recommendation either for or against" the treatment as a recommendation against the treatment. (*Id.* at p. 8:6.)

On March 17, 2022, the parties proceeded to trial and framed for decision the issue of the medical necessity of the requested PRP injection, and applicant's IMR Appeal. The parties also framed the issues of whether the WCJ should instruct the AD to "comply with Labor Code Section 4610.5(c)(2) by considering all standards of medical necessity with (sic) addressing the medical necessity of the requested treatment," and to "provide a copy of all references to the treatment under review contained in the medical-based evidence and law on which the IMR relies to make the determination on medical necessity if not based on ACOEM." (Minutes of Hearing, dated March 17, 2022, at p. 2:18.) Neither party offered witness testimony, and the WCJ ordered the matter submitted for decision.

On April 11, 2022, the WCJ issued the F&O, determining that the November 30, 2020 IMR decision "has already complied with Labor Code § 4610.5(c)(2)," and that the "AD through IMR need not provide a copy of all references to the treatment under review" used by IMR to arrive at a final determination. (Findings of Fact Nos. 3, 4.) The WCJ's Opinion on Decision explained that section 4610.5(c)(2) does not require an exhaustive review of the listed alternatives to the MTUS because the application of the presumptively correct MTUS standing alone was sufficient to resolve questions of medical necessity. (Opinion on Decision, at pp. 7-8.) The WCJ also observed that inasmuch as a dispute regarding the proper application of the MTUS would involve expert medical opinion, the standard of review for an appeal from IMR under section 4610.6(h)(5) of a plainly erroneous finding of fact was not met. (*Id.* at p. 9.)

Applicant's Petition contends that the language of section 4610.5(c)(2) as amended in 2016 "indicates the legislative intent to remove the medical hierarchy requirement from the definition of 'medical necessity.'" (Petition, at p. 6:12.) Applicant notes that the medical evidence search sequence set forth in the MTUS regulations at Cal. Code Regs., tit. 8, § 9792.21.1 antedated the amendments to section 4610.5 that removed the medical hierarchy. (*Id.* at p. 11:17.) Applicant asserts the plain language of section 4610.5(c) means "the AD must consider all standards of 'medical necessity' when resolving Mr. Flores' medical dispute of the medical necessity for PRP since MTUS does not address such treatment." (*Id.* at p. 13:18.) Applicant asserts that any consideration of questions of medical necessity must consider "all standards contained in Labor Code § 4610.5(c)(2) without refer[e]nce to the medical hierarchy." (*Id.* at p. 14:7.) Accordingly, applicant concludes that insofar as the IMR decision failed to specifically address and consider the medical evidence standards set forth under section 4610.5(c)(2), the resulting IMR decision was plainly erroneous, warranting remand to the AD for another review. (*Id.* at p. 17:14.)

Defendant's Answer responds that the UR decision acknowledged that the MTUS did not provide a recommendation regarding the use of PRP treatment and thus relied on the ODG to determine that the treatment was not medically necessary. (Answer, at p. 4:14.) Because applicant "has not established clear and convincing evidence for grounds for an appeal and the determination is presumed to be correct in accordance with Labor Code 4610.6(h)." (*Id.* at p. 4:26.)

The WCJ's Report notes that insofar as applicant challenges the determination of the IMR physician reviewer as the designee of the AD, "applicant has failed to show that the determination made by the AD is reviewable under Labor Code §5307.27 as there is no 'plainly erroneous express or implied findings of fact of ordinary knowledge and not expert opinion.'" (Report, at p. 3.) The WCJ observes that "[t]here was no evidence presented meeting the standard for grounds of the appeal as delineated in Labor Code §5307.27, such that the determination is still presumed to be correct in accordance with Labor Code §4610.6(h)." (*Ibid*.)

DISCUSSION

Disputes regarding the medical necessity of a physician's treatment request in workers' compensation are resolved through UR. (Lab. Code, § 4610, subd. (a).) Under this process, when an employer chooses to challenge a treating physician's RFA, a UR physician must determine, based on "medical necessity," whether to approve, modify, or deny the requested treatment. (Lab.

Code, § 4610, subds. (a), (c), (e) & (g)(4).) The criteria used in the UR process to determine whether to approve, modify, or deny medical treatment services "shall be … [c]onsistent with the schedule for medical treatment utilization, including the drug formulary, adopted pursuant to Section 5307.27." (Lab. Code, § 4610(h)(2).)

Upon receipt of an RFA, an employer has two options: approve the treatment request or dispute the treatment request and submit the matter for medical review. When an employer chooses to challenge a treatment request, a UR physician will then evaluate whether the requested treatment is "medically necessary," and on that basis will either: (1) approve; (2) modify; or (3) deny the requested medical treatment within strict time limits. (*Ibid*.)

When UR denies or modifies a medical treatment request on the basis that it is not medically necessary and appropriate to cure or relieve the injured employee from the effects of an industrial injury, the employee can appeal such determination by requesting IMR. (Lab. Code § 4610.5(d), (e).) Upon assignment of a case for IMR, the designated IMR organization is required to conduct a prompt review of the pertinent medical records and reports and apply the standards for determination of medical necessity as set forth in section 4610.5(c)(2), which provides:

> (2) "Medically necessary" and "medical necessity" mean medical treatment that is reasonably required to cure or relieve the injured employee of the effects of his or her injury and based on the following standards, which shall be applied as set forth in the medical treatment utilization schedule, including the drug formulary, adopted by the administrative director pursuant to Section 5307.27:
>
> (A) The guidelines, including the drug formulary, adopted by the administrative director pursuant to Section 5307.27.
>
> (B) Peer-reviewed scientific and medical evidence regarding the effectiveness of the disputed service.
>
> (C) Nationally recognized professional standards.
>
> (D) Expert opinion.
>
> (E) Generally accepted standards of medical practice.
>
> (F) Treatments that are likely to provide a benefit to a patient for conditions for which other treatments are not clinically efficacious.

(Lab. Code, § 4610.5(c)(2).)

Section 5307.27 requires the AD to adopt MTUS guidelines "that shall incorporate the evidence-based, peer-reviewed, nationally recognized standards of care recommended by the commission pursuant to Section 77.5, and that shall address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers' compensation cases." (Lab. Code, § 5307.27(a).) An IMR determination

"shall be deemed to be the determination of the administrative director and shall be binding on all parties." (Lab. Code, § 4610.6(g).)

The corresponding MTUS regulations enacted by the AD pursuant to section 5307.27 are set forth in AD Rules 9792.20 et seq. (Cal. Code Regs., tit. 8, § 9792.20.) AD Rule 9792.21 provides:

> (a) The Administrative Director adopts the Medical Treatment Utilization Schedule (MTUS) consisting of section 9792.20 through section 9792.26.
>
> (b) The MTUS is based on the principals of Evidenced-Based Medicine (EBM). EBM is a systematic approach to making clinical decisions which allows the integration of the best available evidence with clinical expertise and patient values. EBM is a method of improving the quality of care by encouraging practices that work and discouraging those that are ineffective or harmful. EBM asserts that intuition, unsystematic clinical experience, and pathophysiologic rationale are insufficient grounds for making clinical decisions. Instead, EBM requires the evaluation of medical evidence by applying an explicit systematic methodology to determine the quality and strength of evidence used to support the recommendations for a medical condition or injury. The best available evidence is then used to guide clinical decision making.
>
> (c) The recommended guidelines set forth in the MTUS are presumptively correct on the issue of extent and scope of medical treatment. The MTUS constitutes the standard for the provision of medical care in accordance with Labor Code section 4600 for all injured workers diagnosed with industrial conditions because it provides a framework for the most effective treatment of work-related illness or injury to achieve functional improvement, return-to-work, and disability prevention. The MTUS shall be the primary source of guidance for treating physicians and physician reviewers for the evaluation and treatment of injured workers.
>
> (d) Treatment shall not be denied on the sole basis that the condition or injury is not addressed by the MTUS. There are two limited situations that may warrant treatment based on recommendations found outside of the MTUS.
>
> > (1) First, if a medical condition or injury is not addressed by the MTUS, medical care shall be in accordance with other medical treatment guidelines or peer-reviewed studies found by applying the Medical Evidence Search Sequence set forth in section 9792.21.1.
> >
> > (2) Second, if the MTUS' presumption of correctness is successfully challenged. The recommended guidelines set forth in the MTUS are presumptively correct on the issue of extent and scope of medical treatment. The presumption is rebuttable and may be controverted by a

> preponderance of scientific medical evidence establishing that a variance from the schedule is reasonably required to cure or relieve the injured worker from the effects of his or her injury. The presumption created is one affecting the burden of proof. Therefore, the treating physician who seeks treatment outside of the MTUS bears the burden of rebutting the MTUS' presumption of correctness by a preponderance of scientific medical evidence.

(Cal. Code Regs., tit. 8, § 9792.21(a)-(d).)

Thus, the MTUS is the "primary source of guidance" for treating physicians and physician reviewers for the evaluation and treatment of injured workers and is presumptively correct as to medical necessity disputes addressed by the MTUS. (Cal. Code Regs., tit. 8, § 9792.21(c).)

Here, however, the WCJ has observed that "[t]he UR denial as well as applicant's petition appealing administrative director's independent medical review determination both note that the California MTUS state that intraarticular platelet-rich plasma and plasma rich (PRP) in growth factor are neither recommended nor not recommended for treatment of moderate to severe knee osteoarthritis." (Opinion on Decision, at p. 4.) In other words, while the MTUS discusses PRP therapy, it does not offer a recommendation either in support of or in opposition to its use in cases of moderate to severe knee osteoarthritis.

AD Rule 9792.21(d)(1) provides that if the condition or injury is not addressed in the MTUS, "medical care shall be in accordance with other medical treatment guidelines or peer-reviewed studies found by applying the Medical Evidence Search Sequence set forth in section 9792.21.1," which provides in relevant part:

> (a) Treating physicians and medical reviewers shall conduct the following medical evidence search sequence for the evaluation and treatment of injured workers.
>
> > (1) Search the recommended guidelines set forth in the current MTUS to find a recommendation applicable to the injured worker's medical condition or injury.
> >
> > (2) In the limited situation where a medical condition or injury is not addressed by the MTUS or if the MTUS' presumption of correctness is being challenged, then:
> >
> > > (A) Search the most current version of ACOEM or ODG to find a recommendation applicable to the injured worker's medical condition or injury. Choose the recommendation that is supported

> with the best available evidence according to the MTUS Methodology for Evaluating Medical Evidence set forth in section 9792.25.1. If no applicable recommendation is found, or if the treating physician or reviewing physician believes there is another recommendation supported by a higher quality and strength of evidence, then
>
> (B) Search the most current version of other evidence-based medical treatment guidelines that are recognized by the national medical community and are scientifically based to find a recommendation applicable to the injured worker's medical condition or injury. Choose the recommendation that is supported with the best available evidence according to the MTUS Methodology for Evaluating Medical Evidence set forth in section 9792.25.1. Medical treatment guidelines can be found in the National Guideline Clearinghouse that is accessible at the following website address: www.guideline.gov/. If no applicable recommendation is found, or if the treating physician or reviewing physician believes there is another recommendation supported by a higher quality and strength of evidence, then
>
> (C) Search for current studies that are scientifically-based, peer-reviewed, and published in journals that are nationally recognized by the medical community to find a recommendation applicable to the injured worker's medical condition or injury. Choose the recommendation that is supported with the best available evidence according to the MTUS Methodology for Evaluating Medical Evidence set forth in section 9792.25.1. A search for peer-reviewed published studies may be conducted by accessing the U.S. National Library of Medicine's database of biomedical citations and abstracts that is searchable at the following website: www.ncbi.nlm.nih.gov/pubmed. Other searchable databases may also be used.

(Cal. Code Regs., tit. 8, § 9792.21.1(a).)

The October 22, 2020 UR decision acknowledged the lack of an affirmative MTUS recommendation regarding the use of PRP injections and thus evaluated the requested treatment under alternative guidelines described in AD Rule 9792.21.1(a)(2)(A). Applying the ODG, which *does* offer affirmative guidelines relevant to PRP treatment, the UR physician determined the requested treatment wat not medically necessary. (Ex. 11, Utilization Review Denial Notice, dated October 22, 2020, at p. 1.)

The November 30, 2020 IMR determination upheld the October 22, 2020 UR decision by applying a more general standard under the MTUS, noting that "evaluation of the patient prior to

the initiation of treatment should include documentation regarding objective physical findings and current functional abilities both at home and at work … [including a] clear statement regarding what objective or functional goals are to be achieved through the use of treatment. (Ex. 12, Independent Medical Review Determination, dated November 30, 2020.) Because the submitted documentation did not contain "recent and clear indications of any specific objective treatment goals; and no current and complete objective functional abilities for at home and at work," and was not otherwise supported in the MTUS, the IMR physician affirmed the UR decision to non-certify the PRP treatment. (*Ibid*.)

In its current iteration, section 4610.5(c)(2) provides a list of sources for evaluating medical necessity, including the MTUS, peer-reviewed scientific and medical evidence, nationally recognized professional standards, expert opinion, and generally accepted standards of medical practice. (Lab. Code, § 4610.5(c)(2).) Applicant's Petition contends that prior to its amendment in 2017, section 4610.5(c) contained the same list of medical sources, but that in its former version, the statute mandated the sources "be applied in the order listed, allowing reliance on a lower ranked standard only if every higher ranked standard is inapplicable to the employee's medical condition." (Lab. Code, § 4610.5(c)(2) (2014 version).) The current version of the statute retains the alternative standards including "peer-reviewed scientific and medical evidence," and "nationally recognized professional standards," but no longer contains a mandatory hierarchy of evidence. Applicant asserts that in removing the mandatory hierarchy of medical evidence, the Legislature "sought to change the definition of 'medical necessity' to allow consideration of all standards when resolving medical disputes when MTUS does not address the treatment recommendation…." (Petition, at p. 10:25.)[3] Applicant asserts that the IMR decision failed to expressly consider the alternative sources of medical evidence identified in the current version of section 4610.5(c)(2)(B)-(F), and

[3] Although the issue is not necessary to our ultimate determination herein, we note that the legislative history regarding Senate Bill 1160 (SB1160) appears to demonstrate legislative intent to *expedite* the process by which the AD could make timely updates to the MTUS without the delays inherent in statutory amendment. The California Legislative Digest summary of SB1160 noted that while the existing law required "the administrative director, in consultation with the Commission on Health and Safety and Workers' Compensation, to adopt, after public hearings, a medical treatment utilization schedule to incorporate evidence-based, peer-reviewed, nationally recognized standards of care recommended by the commission, as specified … this bill would authorize the administrative director to make updates to the utilization schedule by order, which would not be subject to the Administrative Procedure Act…." (2016 Cal. ALS 868 (2016 Cal Stats. ch. 868).) Similarly, the Senate Committee on Labor and Industrial Relations Bill Analysis noted that SB1160 "[p]rovides that the medical treatment utilization schedule (MTUS) may be updated with evidence-based medicine standards by an expedited process." (https://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_1151-1200/sb_1160_cfa_20160831_114939_sen_comm.html)

that as such, committed a "a plainly erroneous express or implied finding of fact of ordinary knowledge" as described in section 4610.6(h)(5). (*Id.* at p. 17:14.)

However, we observe that AD Rule 9792.21.1(a)(2) *requires* consultation with the ACOEM or ODG guidelines "in the limited situation where a medical condition or injury is not addressed by the MTUS or if the MTUS' presumption of correctness is being challenged." (Cal. Code Regs., tit. 8, § 9792.21.1(a)(2).) Here, there is no dispute that while the MTUS does not contain specific affirmative recommendations regarding PRP injections, the requested treatment *is* addressed in the ODG guides. Because the UR physician applied the ODG guides as required under AD Rule 9792.21.1(a)(2)(A), the resulting medical conclusion as to the medical necessity of the requested treatment was validly obtained in compliance with sections 4610.5(c)(2) and AD Rule 9792.21.1.

The November 30, 2020 IMR decision acknowledges that the UR decision was reached based on the ODG but does not ultimately reach the issue of the applicability of the ODG because the IMR physician instead evaluated the medical necessity of the requested treatment through the application of general, but nonetheless applicable MTUS Guidelines regarding new courses of treatment. The IMR decision observes that per the MTUS, proposed courses of treatment should describe current physical findings and functional abilities and clearly state "what objective or functional goals are to be achieved through the use of the treatment." (Ex. 12, Independent Medical Review Determination, dated November 30, 2020, at p. 3.) Because the submitted record did not meet this threshold criteria as set forth in the presumptively correct MTUS, the IMR physician found insufficient grounds upon which to overturn the underlying UR decision. In both instances, the reviewing UR/IMR physicians applied the medical evidence standards prescribed under sections 4610.5(c)(2)(A), 5307.27, and AD Rule 9792.21.1(a)(1)-(2). We thus conclude that the question of the medical necessity of the requested PRP injections was addressed and resolved through a valid UR/IMR process.

Applicant further challenges the November 30, 2020 IMR decision to affirm the UR non-certification of the requested treatment on the grounds that the failure to consider alternative sources of medical evidence under section 4610.5(c)(2) constitutes a "determination [that] was the result of a plainly erroneous express or implied finding of fact, provided that the mistake of fact is a matter of ordinary knowledge," as described in section 4610.6(h)(5).

We agree with the WCJ, however, that inasmuch as the evaluation of the issue required expert medical opinion, the determination of the IMR physician was not a matter of ordinary knowledge. (Report, at pp. 3-4; Opinion on Decision, at p. 9.) The IMR physician reviewed the submitted medical evidence including the underlying UR decision and applied applicable MTUS standards described in section 5307.27 and AD Rule 9792.21.1 to evaluate the medical necessity of the requested treatment. (Cal. Code Regs., tit. 8, § 9792.21.1.) Accordingly, the IMR decision was not "the result of a plainly erroneous express or implied finding of fact, provided that the mistake of fact is a matter of ordinary knowledge based on the information submitted for review pursuant to Section 4610.5." (Lab. Code, § 4610.6(h)(5).)

In summary, we find that that the UR/IMR process herein applied the required MTUS standards described under section 4610.5(c)(2), 5307.27, and AD Rule 9792.21.1(a)(1), or authorized alternate sources of medical evidence specified by AD Rule 9792.21.1(a)(2)(A). We further conclude that November 30, 2020 IMR decision at issue was not "the result of a plainly erroneous express or implied finding of fact, provided that the mistake of fact is a matter of ordinary knowledge based on the information submitted for review pursuant to Section 4610.5 and not a matter that is subject to expert opinion." (Lab. Code, § 4610.6(h)(5).)

Applicant has not established by clear and convincing evidence one of the statutorily permissible grounds for appeal of a presumptively correct IMR decision. (Lab. Code, § 4610.6(h).) We will affirm the April 11, 2022 F&O, accordingly.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the April 11, 2022 Findings and Order is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 16, 2026

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

ROBERT FLORES
LAW OFFICE OF MICHAEL YAP
PARKER & IRWIN

SAR/abs

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