

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

RUBEN TORRES AVILA, *Applicant*

vs.

**MAGLAURYN CORP. dba ADVANCED MAINTENANCE CONCEPTS; EMPLOYERS
ASSURANCE, administered by BERKSHIRE HATHAWAY HOMESTATE
COMPANIES, *Defendants***

**Adjudication Numbers: ADJ10283590, ADJ10283593
Pomona District Office**

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

Lien claimant, Physical Rehabilitation Services, Inc., seeks reconsideration of the “Findings and Award” (F&A) issued on January 29, 2026, by the workers’ compensation administrative law judge (WCJ). The WCJ found, in pertinent part, that lien claimant failed to prove that applicant sustained industrial injury and “awarded” lien claimant nothing on its lien claim.¹

Lien claimant contends that the defendant failed to produce evidence of a timely claim denial, and thus the claim is presumptively accepted.

We have received an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration, the Answer, and the contents of the WCJ’s Report. Based on our review of the record and for the reasons discussed below, we will grant lien claimant’s Petition for Reconsideration. As our Decision After Reconsideration, we will rescind the January 29, 2026 F&A and return this matter to the trial level for further proceedings.

¹ It appears that the WCJ may have mislabeled the F&A as no actual award issued. We interpret the WCJ’s “award” as an order that lien claimant take nothing on its claim.

FACTS

Applicant sustained an admitted injury to his right knee and claims to have sustained injury to the lumbar spine and left knee. (Compromise and Release, filed June 27, 2016, p. 7.) It appears that applicant treated on a lien basis prior to settlement.

The lien claim proceeded to trial, where the parties submitted the issue of injury to the left knee and lumbar spine. (Minutes of Hearing and Summary of Evidence, January 13, 2026, pp. 2 – 3.) The WCJ found against lien claimant on those body parts due to a lack of substantial medical evidence. (Opinion on Decision, January 29, 2026.) It is unclear why; however, it appears that the parties omitted notifying the WCJ that defendant accepted injury to the right knee. This led to the WCJ issuing an order that lien claimant take nothing on its lien, when body parts was merely one issue to resolve and not a dispositive issue.

DISCUSSION

I.

Former Labor Code² 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. (§ 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.

(§ 5909.)

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

² All future references are to the Labor Code unless noted.

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 February 23, 2026, and 60 days from the date of transmission is Friday, April 24, 2026. This decision issued by or on April 24, 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.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on February 23, 2026, and the case was transmitted to the Appeals Board on February 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 February 23, 2026.

II.

A lien claimant holds the burden of proof to establish all elements necessary to establish its entitlement to payment for medical expenses. (See §§ 3202.5, 5705.5; *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1115 (Appeals Board en banc).)

To the extent that lien claimant’s billing includes services to the lumbar spine and left knee, and except for services of up to \$10,000.00 reasonably rendered while a claim is on delay (§ 5402(c),) lien claimant has to burden to establish industrial causation to those body parts. The WCJ found that the left knee and lumbar spine were not industrial and ordered lien claimant to take nothing on its lien. However, our review of the record does not indicate that this was a denied claim in its entirety. The Compromise and Release, which was approved on June 27, 2016, expressly states: “Injury admitted to right knee only with all other body parts denied.” This case

involves an admitted industrial injury.³ It is unclear why this fact was not brought to the WCJ's attention. Furthermore, even where a claim is denied, a lien claimant may still be entitled to reasonable treatment rendered prior to defendant issuing its denial letter, up to the statutory cap of \$10,000.00. As lien claimant points out in its petition, defendant produced no denial letter at trial. It would appear that the more prudent course would be to return this matter to the trial level to allow supplementation of the record.

The parties should be more careful in the future so as not to inadvertently omit material facts. As the WCJ was not properly informed that this was an accepted claim, the WCJ's take nothing order issued in error and must be rescinded.

Before resubmitting this matter for trial, we encourage the parties to consider meeting and conferring to resolve their dispute.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration of the Findings and Award issued on January 29, 2026, by the workers' compensation administrative law judge is **GRANTED**.

³ It has long been held that apportionment does not apply to medical treatment and that an employer is responsible for "all medical treatment necessitated in any part by an industrial injury." (*Hikida v. Workers' Comp. Appeals Bd.* (2017) 12 Cal. App. 5th 1249, 1263.) This may also include non-industrial body parts that require treatment to cure or relieve an industrial injury. Furthermore, where in cases like this where the body parts are in dispute, a medical report may also be compensable as a medical-legal expense.

IT IS FURTHER ORDERED as the Decision After Reconsideration that the Findings and Award issued on January 29, 2026, by the workers' compensation administrative law judge is **RESCINDED** and this matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 24, 2026

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

**RUBEN TORRES AVILA
SIEGEL MORENO
AV MANAGEMENT COLLECTION
PHYSICAL REHAB SERVICES**

EDL/mt

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