WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

SANTOS CERDA, *Applicant*

vs.

SILVER SADDLE RANCH CLUB, INC.;
ACE AMERICAN INSURANCE COMPANY, administered by
SEDWICK CLAIMS MANAGERMENT SERVICES, *Defendants*

Adjudication Number: ADJ10816168
Los Angeles District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Applicants seek reconsideration of the Findings and Order issued by the workers' compensation administrative law judge (WCJ) on July 16, 2026. Therein, the WCJ found that "the reasoning of the Court of Appeal as set forth in *Rodriguez* is more persuasive than that set forth by the Appeals Board in *Patterson*, and as such there is no need for a change in circumstances for a utilization review addressing medical necessity to be valid." The WCJ deferred all other issues.

We have considered the Petition for Reconsideration, and the contents of the Report and Recommendation on Petition for Reconsideration (Report), and we have reviewed the record in this matter. Based upon our preliminary review of the record, we will grant the 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.

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

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to section 5909, which states 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 August 19, 2026 and 60 days from the date of transmission is Sunday, October 18, 2026. The next business day that is 60 days from the date of transmission is Monday, October 19, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, October 19, 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 shall be notice of transmission.

[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.

Here, according to the proof of service for the Report, the Report was served on August 19, 2026, and the case was transmitted to the Appeals Board on August 19, 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 August 19, 2026.

II.

The WCJ provided the following discussion in the Report:

FACTUAL BACKGROUND

> The underlying facts of this case are undisputed and stipulated by the parties. On November 4, 2016 Applicant sustained an admitted industrial injury to his neck and back as a result of his employment at Silver Saddle Ranch Club, Inc. The injury occurred when he was putting away equipment in the storage barn and a metal piece of an unknown weight fell and hit him on top of his head. Applicant lost consciousness. When regaining consciousness, Applicant developed a headache and his neck was painful and he felt dizzy, dazed, disoriented, and confused. Applicant informed his supervisor and went to the doctor.
>
> At the time of the relevant request for authorization, applicant was receiving care at Casa Colina Transitional Living Center Interdisciplinary Post-Acute Residential Rehab Program.
>
> The parties also stipulated that the UR Denial of March 12, 2026 was timely issued, that there were no change of circumstances set forth within the medical report relating to the March 10, 2026 RFA, and that the UR Denial cannot result in the termination of inpatient treatment without an agreed to release plan being in place.
>
> The sole question before the court at Trial was whether there is a need for a change of circumstances as per *Patterson*, or not as per *Rodriguez*. Minutes of Hearing, EAMS ID# 80297588.
>
> It was the undersigned's finding that the reasoning of the Court of Appeal as set forth in Rodriguez is more persuasive than that set forth by the Appeals Board in Patterson, and as such there is no need for a change in circumstances for a utilization review addressing medical necessity to be valid. EAMS ID# 80544852. The Opinion on Decision sets forth specifically that
>
> > this Court finds the reasoning of the Court of Appeal as set forth in Rodriguez as more persuasive than that set forth by the Appeals Board in

> Patterson. It is the Opinion of this Court that for treatment after 2013, there is no condition precedent that applicant's condition have changed be the trigger for utilization review as to the medical necessity of such treatment. Each utilization review addressing the medical necessity is for a finite period and the Labor Code does not provide that any one-time authorization of a medical treatment is necessarily deemed to be of indefinite duration; just the opposite. Utilization review is necessary for all services upon the expiration of the previously authorized period of services. Applicants bear the ongoing burden of proving that all medical treatment sought is reasonable and necessary.
> *Id. at 2-3.*

On August 6, 2026 Applicant filed a timely Petition for Reconsideration. EAMS ID# 65868670. Applicant asserts that the WCAB Panel decision of *Patterson* and newly cited Court of Appeal Decision of *Rivota* (*National Cement Company, Inc. v. WCAB (Rivota, Korey)*, 86 Cal. Comp. Cases 595) cases "better reflect the Legislative policy rationales for accuracies, speed, stability and certainty by ruling that the injured worker is not required at ad infinitum under the same circumstances." *Id.* at 4:20-22.

DISCUSSION

Applicant's Petition for Reconsideration ("Recon") relies on incorrect facts. The Recon asserts that both the *Patterson* and *Rodriguez* case decisions that were analyzed in the undersigned's Findings & Order were WCAB Panel decisions and deserve equal application by Workers' Compensation Judges. This is an incorrect statement: the Patterson decision (*Patterson v. The Oaks Farm* (2014), 79 Cal. Comp. Cases 910) is a WCAB Panel decision that has been designated by the WCAB as a significant panel decision; and, the Rodriguez decision (*Illinois Midwest Ins. Agency LLC v. Workers' Comp. Appeals Bd. (Rodriguez)* (2025) 115 Cal.App.5th 1168 [338 Cal.Rptr.3d 778]) that served as the basis for the Findings & Order is a Court of Appeal decision that is currently pending review by the California Supreme Court (*Illinois Midwest Insurance Agency LLC v. Workers' Comp. Appeals Bd. & Rodriguez* (2026) 340 Cal.Rptr.3d 739 [581 P.3d 1161, 1162]) wherein the Supreme Court specifically noted that the Court of Appeal decision may be cited

> not only for its persuasive value, but also for the limited purpose of establishing the existence of a conflict in authority that would in turn allow trial courts to exercise discretion under *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 456 [20 Cal. Rptr. 321, 369 P.2d 937], to choose between sides of any such conflict. (See *Standing Order Exercising Authority Under California Rules of Court, Rule 8.1115(e)(3), Upon Grant of Review or Transfer of a Matter with an Underlying Published Court of Appeal Opinion*, Administrative Order 2021-04-21; Cal. Rules of Court, rule 8.1115(e)(3) and corresponding Comment, par. 2.)

(*Id*.)

Same was specifically noted in the Findings & Order.

As noted above, the Recon also asserts that Applicant's position is supported by the Court of Appeal Decision of *Rivota* (*National Cement Company, Inc. v. WCAB (Rivota, Korey)*, 86 Cal. Comp. Cases 595). The Recon fails to note that the Court of Appeal "decision" in *Rivota* is merely Writ Denied. As set forth in the *Rodriguez* decision,

> A summary denial [by the Court of Appeal] of a petition for judicial review of an Appeals Board ruling decides no issues and has no precedential value. (*Ralphs Grocery Co. v. Workers' Comp. Appeals Bd.* (1995) 38 Cal.App.4th 820, 827, fn. 7 [45 Cal. Rptr. 2d 197]; *Coltherd v. Workers' Comp. Appeals Bd.* (1990) 225 Cal.App.3d 455, 462 [275 Cal.Rptr. 130].) The Appeals Board incorrectly characterized a case summary of *Rivota* as the decision of this appellate court "upholding" the Appeals Board's application of *Patterson*. No appellate court has adopted the Appeals Board's reasoning in *Patterson*, and we decline to do so here. *Rodriguez*, *supra*, at 1190.

Even more interesting is that the WCAB panel "decision" in *Rivota* (ADJ9856812) is an Opinion and Order Denying Defendant's Petition for Reconsideration, without any independent analysis and incorporates the reasons set forth in the WCJ's Report and Recommendation that the Petition be denied. Such an Opinion and Order Denying Defendant's Petition for Reconsideration is not even citable nor holds any precedential or persuasive value on any other cases.

WCAB panel decisions are not binding precedent on other Appeals Board panels and WCJs. However, panel decisions are citable and are considered to the extent that their reasoning is persuasive. *See* https://www.dir.ca.gov/WCAB/wcab_dars.htm.

Patterson has been designated by the WCAB as a significant panel decision. Significant panel decisions are cases that are identified for dissemination by the WCAB in order to address new or recurring issues of importance to the workers' compensation community. Significant panel decisions have been reviewed by each of the commissioners, who agree that the decision merits general dissemination but **are not binding precedent**, and intended to augment the body of binding appellate and en banc decisions by providing further guidance to the workers' compensation community. (emphasis added) *Id*.; CCR tit. 8, secs 10325(b) and 10305(u).

Rodriguez is a published opinion by the Court of Appeal, Second Appellate District. The Second District covers four counties in Southern California

including Los Angeles county, where this matter is venued. *See* https://appellate.courts.ca.gov/district-courts/2dca/about Under California Rules of Court, rule 8.1115, a published opinion from a California Court of Appeal may be cited or relied upon by parties and courts immediately upon being certified or ordered published. However, its precedential value changes if the California Supreme Court grants review. Same was addressed by the California Supreme Court and set forth in the Opinion on Decision. The Published Opinions of the Court of Appeal are fully citable and have binding authority upon the lower courts within the district, which is the case here.

The significant panel decision of *Patterson* is not binding authority in this matter. On the other hand, the decision of *Rodriguez*, a Published and citable Court of Appeal decision, is binding authority in this matter.

As *Rodriguez* is binding authority in this matter, it was applied by the undersigned.

RECOMMENDATION

For the reasons stated above, it is respectfully recommended that Applicant's Petition for Reconsideration be denied.

(Report, at pp. 1-6)

III.

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

Under California's workers' compensation system, the employer of an industrially injured employee is responsible for all medical treatment reasonably necessary to cure or relieve the injured employee from the effects of his or her injury. (Lab. Code, § 4600.) Employers' responses to requests for medical treatment submitted by the physicians of their injured employees are governed by utilization review (UR), the legislative purpose of which is to "ensure quality, standardized medical care for workers in a prompt and expeditious manner" … so that "a physician rather than a claims adjustor with no medical training, makes the decision to deny, delay or modify treatment." (Lab. Code, § 4610; *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd. (Sandhagen)* (2008) 44 Cal.4th 230, 241 [73 Cal.Comp.Cases 981].)

UR does not abrogate an employer's duties to provide reasonable medical treatment to cure or relieve from the effects of the industrial injury and to investigate whether and to what extent

treatment is due. (Cal. Code Regs., tit. 8, § 10109; § 4600(a); see *Braewood Convalescent Hospital v. Workers' Comp. Appeals Bd*. (1983) 34 Cal.3d 159, 165 [48 Cal.Comp.Cases 566].)

The Legislature enacted section 4610(k) which provides that a utilization review (UR) decision to modify or deny a treatment recommendation generally remains in effect for 12 months with no further action required by the employer. (Lab. Code, § 4610(k); see Cal. Code Regs., tit. 8, § 9792.9.1(h).) The Legislature provided an explicit exception to the 12-month window where the circumstances surrounding the original UR decision had changed. (Lab. Code, § 4610 (k).) In so doing, the Legislature provided for a threshold factual inquiry into whether a change in circumstance created a new question of medical necessity.

In order to determine whether a new question of medical necessity has arisen, section 4610(k) sets forth a specific metric: "*documented change in the facts material to the basis of the utilization review decision*." (Lab. Code, § 4610(k), italics and underlining added.) This standard is applied in all instances where a treating physician seeks to establish that a previously denied or modified treatment request is now justified by an underlying change in the employee's condition that warrants a renewed assessment of the question of medical necessity.

In *Illinois Midwest Ins. Agency LLC v. Workers' Comp. Appeals Bd. (Rodriguez)* 115 Cal.App.5th 1168 [90 Cal.Comp.Cases 1127] the Court of Appeals held that "[w]hen a request for authorization of treatment is submitted and there is a dispute over whether the requested treatment is medically necessary, that dispute must be resolved through the utilization review and independent medical review[(IMR)] processes, rather than in an extra-statutory proceeding before the WCAB." On January 21, 2026, the Supreme Court granted review of *Rodriguez.*

In its Opinion granting review, the Supreme Court stated: "Pending review, the opinion of the Court of Appeal, which is currently published at 115 Cal.App.5th 1168 [338 Cal. Rptr. 3d 778], may be cited, not only for its persuasive value, but also for the limited purpose of establishing the existence of a conflict in authority that would in turn allow trial courts to exercise discretion under *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 456 [20 Cal. Rptr. 321, 369 P.2d 937], to choose between sides of any such conflict. (See Standing Order Exercising Authority Under California Rules of Court, Rule 8.1115(e)(3), *Upon Grant of Review or Transfer of a Matter with an Underlying Published Court of Appeal Opinion*, Administrative Order 2021-04-21; Cal. Rules of Court, rule 8.1115(e)(3) and corresponding Comment, par. 2.)"

Here, it appears from our preliminary review that a conflict in authority exists as to the issues in this case and that the Supreme Courts review of this issue is pending. 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.

IV.

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 sections 5950 et seq.

V.

Accordingly, we grant applicant'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 applicant'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/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 19, 2026

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

SANTOS CERDA
LAW OFFICES OF SOLOV & TEITELL, APC
COLEMAN CHAVEZ & ASSOCIATES

PAG/cm

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