WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

JOSEPH MICHAELS, *Applicant*

vs.

ENTERTAINMENT PARTNERS; AIU INSURANCE, administered by GALLAGHER BASSETT SERVICES, *Defendants*

Adjudication Number: ADJ11409207
Los Angeles District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION

Applicant seeks reconsideration of the Findings of Fact and Order issued by the workers' compensation administrative law judge (WCJ) in this matter and served on August 12, 2024. In that decision, the WCJ found that applicant sustained injury arising out of and in the course of employment (AOE/COE) to his cervical spine, head, and traumatic brain injury, and claims to have sustained injury to his lumbar spine, thoracic spine, eyes, nose, circulatory system, heart, nervous system, psyche, reproductive system, and endocrine system.

The WCJ also found, in pertinent part, that the Utilization Reviews (UR) by defendant issued in response to Dr. David Patterson's February 20, 2024, April 3, 2024 and April 11, 2024 requests for authorization (RFA) were subject to the five business days timeline under regulation 9792.9.1(c)(3)[1], and that such review denials were issued and served timely. Further, that both applicant's ongoing inpatient residential rehabilitation stay care as well as his transitional living center day treatment rehabilitation program were not prematurely terminated.

Additionally, the WCJ found that while the defendant violated Labor Code section 4610(i)[2] and AD rule 9792.9.1(e)(6)(A) by failing to provide a safe discharge plan prior to applicant's discharge from inpatient residential care, the applicant failed to provide substantial medical evidence to support the request for such ongoing care as being reasonable and necessary.

---

[1] Cal. Code Regs., tit. 8 § 9792.9.1(c)(3).
[2] All further references are to the Labor Code unless otherwise stated.

Finally, the WCJ found that defendant failed to meet its burden of showing by substantial medical evidence that applicant's condition and circumstances changed warranting the cessation of home healthcare services and the need for a registered nurse, as there is substantial evidence supporting the request for same, and that defendant's May 6, 2024 UR decision is based on incorrect facts.

Petitioner asserts that the WCJ applied the incorrect standard in finding that applicant's ongoing inpatient stay was not prematurely terminated, and that under the case of *Patterson v. The Oaks Farm*[3], applicant's inpatient care should not have been terminated. Further, that it is defendant who has the burden to show that previously authorized treatment is no longer reasonable and necessary. Petitioner also argues that the WCJ misconstrued the requirements of section 4610(i)(4)(C) as it relates to a violation of a safe discharge plan by defendant, entitling applicant to continued inpatient stay.

Petitioner requests the petition be granted, the findings of the WCJ be set aside and vacated, and such further orders and proceedings issue as deemed just and proper.

Defendant did not file an Answer.

The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending denial of the Petition.

We have reviewed the allegations in the Petition for Reconsideration and the contents of the Report.

Based upon our preliminary review of the record, we will grant applicant'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 section 5950 et seq.

DISCUSSION

I.

Former Labor Code section 5909 provided that a petition for reconsideration was deemed

[3] *Patterson v. The Oaks Farm* (2014) 79 Cal.Comp.Cases 910 (Significant Panel Decision).

denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, Labor Code 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 Labor Code 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 September 13, 2024, and 60 days from the date of transmission is November 12, 2024. This decision is issued by or on November 12, 2024, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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. Labor Code 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 September 13, 2024, and the case was transmitted to the Appeals Board on September 13, 2024. 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2)

provided them with actual notice as to the commencement of the 60-day period on September 13, 2024.

Preliminarily, we note the following, which may be relevant to our review:

Applicant asserts in his petition the following:

> In the August 9 Findings and Order, the WCJ erroneously bases his finding that Applicant's ongoing inpatient stay was not prematurely terminated on whether the request for ongoing care was reasonable and necessary. The WCJ applied the incorrect standard to make that determination. The issue of whether Applicant's ongoing inpatient stay was prematurely terminated should have been analyzed according to the *Patterson v. The Oaks Farm* holding and subsequent case law.

(Petition, p. 6, 8.)

Citing to a number of panel cases, including the significant panel case of *Patterson*, applicant further argues:

> ***
>
> The above cases have thus set forth that in situations such as this where an Applicant is receiving medical treatment which by its nature is one that is continuous and ongoing, the defendants bear the burden of proof to show a change in the Applicant's clinical circumstances or condition, supported by substantial medical evidence, which indicates that cessation of that treatment is appropriate because the treatment is no longer reasonable and necessary. Defendants cannot meet that burden in this case.
>
> Here, Dr. Patterson continues to opine that the Applicant still requires continued participation in Casa Colina's Transitional Living Center Long-Term Residential Program on an ongoing basis. It is well documented in the medical reporting that Applicant continues to struggle with and experience a multitude of issues that require multidisciplinary care, and that he is at significant risk of decline or further injury if he is left at home, living alone, and no oversight or therapies in place. Applicant and his previous partner have divorced, so he completely lacks any support at home. Applicant has increased difficulty with IADLs, deficits in vision, deficits in cognitive processing, comprehension, attention, memory, and problem solving. See Joint Exhibit 1, Transitional Living Center Progress Note, dated January 22, 2024; Joint Exhibit 8, Transitional Living Center Progress Note, dated April 8, 2024; see also Joint Exhibits 2-3 and 10. He also has limitations in strength, balance, and endurance, along with high fear and anxiety with novel tasks and complex environments. Id.
>
> ***
>
> The WCAB has jurisdiction to determine the issues when there is a violation of Labor Code Section (hereinafter "Section") 4610(i)(4)(C) and AD

Rule 9792.9.1(e)(6), because violation of statute is a legal issue for the court to determine and not an issue for a UR physician. Section 4610(i)(4)(C) provides in pertinent part that "in the case of concurrent review, **medical care shall not be discontinued until** the employee's physician has been notified of the decision and a **care plan has been agreed upon by the physician** that is appropriate for the medical needs of the employee." According to Section 9792.6.1, "concurrent review" means utilization review conducted **during an inpatient stay**.

Furthermore, per Administrative Director Rule 9792.9.1(e)(6), which implements Section 4610(i)(4)(C): "the following requirements **shall be met prior to a concurrent review decision to deny authorization for medical treatment:** (A) Medical care shall not be discontinued until the requesting physician has been notified of the decision and a care plan has been agreed upon by the requesting physician that is appropriate for the medical needs of the employee," and "(B) Medical care provided during a concurrent review shall be treatment that is medically necessary to cure or relieve from the effects of the industrial injury."

(Petition, pp. 10-11.)

The WCJ's report addresses this, in pertinent part, as follows:

In the present matter, it is undisputed that applicant sustained a specific injury on July 11, 2018 to cervical spine, head, and traumatic brain injury. After several years of receiving medical treatment to cure or relieve the effects of his July 11, 2018 injury applicant was admitted to Casa Colina's Transitional Living Center Interdisciplinary Post-Acute Residential Rehabilitation program for inpatient care on May 8, 2023. The most recent Utilization Review approval letter authorizing continued treatment at Casa Colina's Post -Acute Residential Rehabilitation program for inpatient care was issued on January 25, 2024 authorizing ongoing residential rehabilitation treatment thru March 8, 2024 (Exhibit 5).

On February 20, 2024 Dr. David Patterson issued another request for authorization requesting Expedited Review and authorization for continued treatment at Casa Colina's Post -Acute Residential Rehabilitation program for ongoing inpatient care to continue thru April 8, 2024 (Exhibit 1). Defendant submitted the request for authorization to Utilization Review and issued a denial of treatment dated February 23, 2024 (Joint Exhibit 6). Applicant alleges the February 23, 2024 Utilization Review denial is untimely as it failed to comply with the 72 hour response time for Expedited Review request under regulation §9792.9.l(c)(4). However, the Court finds no evidence establishing that the injured worker faces an imminent and serious threat to his health supporting the need for an expedited review because applicant was already authorized to continue receiving inpatient treatment at Casa Colina thru March 8, 2024. Dr. Patterson's February 20, 2024 request for expedited review is not reasonably supported by evidence establishing that the injured worker faces an imminent and serious threat to his or her health, or that the timeframe for utilization review

under subdivision §9792.9.1 (c)(3) would be detrimental to the injured worker's condition because applicant was already receiving the requested treatment and was expected to continue receiving the requested treatment thru March 8, 2024. Therefore, the undersigned WCJ found defendant's February 23, 2024 Utilization Review denial is subject to the timeline of five business days under regulation §9792.9.1 (c)(3) and the denial is found to have been issued and served timely.

Additionally, an untimely Utilization Review does not mean the applicant is automatically entitled to the requested treatment because applicant must still meet his burden of proof by presenting substantial medical evidence supporting the medical treatment requested is medically necessary (Dubon v. World Restoration, 79 Cal. Comp. Cases 1298 (Cal. Workers' Comp. App. Bd. October 6, 2014). The physicians at Casa Colina issued several Transitional Living Center progress notes during applicant's in patient residential rehabilitation treatment. The undersigned WCJ found the progress note dated February 19, 2024 noteworthy as it shows applicant's condition has significantly improved during his inpatient residential rehabilitation treatment. Specifically, the February 19, 2024 note indicates applicant "continues to manage grooming and feeding independently" applicant "has not been using a wheelchair" and is "ambulatory without AD" [assistive devices]; applicant "demonstrates improvement in his cardiovascular fitness" and "participates in two mile community endurance walk 2-3 times per week" (Joint Exhibit 2). Based on all evidence submitted for review including Transitional Living Center progress notes, the undersigned WCJ found applicant's request for ongoing inpatient residential rehabilitation care is not reasonable and necessary. Therefore, the undersigned WCJ found applicant's ongoing inpatient residential rehabilitation care was not prematurely terminated.

***

In the present matter, applicant's inpatient residential rehabilitation stay care at Casa Colina was authorized thru March 8, 2024 (Exhibit 5). Prior to applicant's discharge defendant served a letter to Dr. Patterson at Casa Colina dated February 29, 2024 referring to the utilization review denial of ongoing in patient care and requesting a discharge plan to safely discharge applicant (Exhibit L). Based on the evidence submitted at Trial, Dr. Patterson did not respond to defendant's February 29, 2024 request for a discharge plan, but instead submitted a request for authorization dated March 14, 2024 requesting Expedited Review and authorization for (1) Casa Colina Transitional Living Center Day Treatment Interdisciplinary Rehabilitation Program with 4-6 hours of therapy 3 days per week for 6 weeks with transportation services; HHA [home healthcare services] 8 hours a day 7 days a week for 6 weeks to assist with ADLs; and (3) RN [registered nurse] once a week 2 hours a day for 6 weeks for medication management (Exhibit 6).

Ultimately applicant was entitled to concurrent utilization review of requests for authorization of medical treatment, due to his inpatient status at Casa Colina, pursuant to Labor Code section 4610(i) and Administrative Director's

> Rule 9792.9.l(e)(6); and defendant failed to comply with Labor Code section 4610(i) and Administrative Director's Rule 9792.9.l(e)(6)(A). However, as discussed above the medical care to be provided must be medically necessary, and applicant has failed to provide substantial medical evidence to support the request for ongoing inpatient residential rehabilitation care was reasonable and necessary.

(Report, pp. 4-6.)

In *Patterson v. The Oaks Farm* (2014) 79 Cal.Comp.Cases 910 (Appeals Board significant panel decision), the Appeals Board held that an employer may not unilaterally cease to provide treatment authorized as reasonably required to cure or relieve the effects of industrial injury upon an employee without substantial medical evidence of a change in the employee's circumstances or condition. The panel reasoned:

> Defendant acknowledged the reasonableness and necessity of [the medical treatment at issue] when it first authorized [that treatment], and applicant does not have the burden of proving [its] ongoing reasonableness and necessity. Rather, it is defendant's burden to show that the continued provision of the [treatment] is no longer reasonably required because of a change in applicant's condition or circumstances. Defendant cannot shift its burden onto applicant by requiring a new Request for Authorization [RFA] and starting the process over again.

In *Nat'l Cement Co., Inc. v Workers' Comp. Appeals Bd. (Rivota*) (2021) 86 Cal.Comp.Cases 595, the Second District Court of Appeal upheld the Appeals Board's application of *Patterson* to award an applicant continued inpatient care at Casa Colina, stating:

> [T]he principles advanced in [*Patterson*] apply to other medical treatment modalities as well. Here . . . Applicant had continued need for placement at Casa Colina. Further, [applicant's witness] stated that there was no change in Applicant's circumstance and no reasonable basis to discharge Applicant from care. The WCJ . . . concluded that Applicant's continued care at Casa Colina was necessary, without ongoing RFAs, to ensure Applicant's safety and provide him with a stable living situation and uninterrupted medical treatment.
> (*Rivota*, *supra*, at p. 597.)

In upholding this application of *Patterson*, the *Rivota* court rejected the employer's attempt to distinguish it on the grounds that it had never authorized inpatient care for an unlimited or ongoing period, never relinquished its right to conduct UR, and never been subject to a finding that inpatient treatment was reasonable and necessary for the applicant under section 4600. (*Id*.)

Most recently, the California Supreme Court denied review of the Second District Court of Appeal's supporting the Appeal's Board's application of *Patterson* in *Los Angeles County*

Metropolitan Transit Authority v. WCAB (Burton) 89 Cal.Comp.Cases 977; 2024 Cal. Wrk.Comp. LEXIS 55. In affirming the decision of the WCAB to uphold the WCJ's findings, the Court stated:

> In his report on reconsideration, the WCJ discussed the applicability of *Patterson* to medical treatment that is ongoing, such as nurse case manager services and inpatient residential programs, as opposed to treatment that requires periodic review, such as drug prescriptions. The WCJ pointed out that in cases of ongoing treatment RFAs are not required absent evidence of a material change in the employee's circumstances or condition, and UR determinations issued without a showing of changed circumstances are automatically void even if they are timely:
>
> > The undersigned respectfully disagrees with defendant's argument against the holding in *Patterson*, that allowing the Board to make decisions about the medical necessity of treatment for injured workers despite a timely utilization review violates the Legislature's intent behind establishing the utilization review and IMR processes, violates *Dubon II [Dubon v. World Restoration, Inc.* (2014) 79 Cal. Comp. Cases 1298 (Appeals Board en banc).] and its progeny, and Court of Appeal cases interpreting this issue. On the contrary, the whole point of *Patterson* is that a Form RFA is not required in certain circumstances involving care of an ongoing nature. The decision is about when an RFA is required, and if one is not required in the first place, then there can be no valid UR therefrom, timely or otherwise. Defendant's assertion that its utilization review (UR) non-certification of August 30, 2023 was timely is therefore moot in light of the application of the reasoning in *Patterson*. Also moot is the argument that the requesting physician was not justified in checking the box marked "Expedited Review" on Form RFA, and that therefore defendant should have been allowed five working days, and not 72 hours, after receipt to respond to the August 22, 2023 request for authorization. …
> >
> > Defendant's argument that its allegedly timely and valid UR determination provides substantial medical evidence of a change in circumstances is inapplicable because the UR should never have been issued in the first place under the reasoning in *Patterson*, as explained above. Defendants' claim that evidence of applicant's worsening condition constitutes a change in circumstances warranting cessation of treatment also fails, insofar as the deterioration of applicant's condition does not support the termination of authorization for treatment, but on the contrary provides even greater support for the request. …

(*Burton*, at p. 979-980.)

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.)

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10787.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton, supra,* 66 Cal.Comp.Cases at p. 475.) The WCJ's decision must "set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on," so that "the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record." (*Id*. at p. 476 (citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal. 2d 753, 755 [33 Cal.Comp.Cases 350]).)

The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave matters undeveloped where it is clear that additional discovery is needed. (*Id.* at p. 404.)

Here, there is no explanation in the record as to why UR applies. Further, we must consider the effect of the failure by defendant to obtain an agreed upon care plan with the requesting

physician prior to the decision to deny authorization for medical treatment per Rule 9792.9.1(e)(6), and whether the existing record is sufficient to support the decision, order, and legal conclusions of the WCJ, as well as whether further development of the record may be necessary with respect to the issues noted above.

II.

Finally, we observe that 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 [62 Cal.Rptr. 757, 432 P.2d 365]; *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"].)

Labor Code 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.

III.

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 of the Findings and Order issued on May 14, 2024 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.

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/ KATHERINE A. ZALEWSKI, CHAIR

CRAIG SNELLINGS, COMMISSIONER
CONCURRING NOT SIGNING

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 12, 2024

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

JOSEPH MICHAELS
ODJAGHIAN LAW GROUP
MISA STEFEN KOLER WARD

LAS/abs

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