

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

CANDELARIO ALEMAN, *Applicant*

vs.

**LOGISTICS DUBOIS CORPORATION;
GUARD INSURANCE COMPANY,**

Defendants

**Adjudication Number: ADJ11420360
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the workers' compensation administrative law judge's (WCJ's) Report with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report which we adopt and incorporate, we will deny reconsideration.

I.

Former Labor Code section¹ 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

¹ All section references are to the Labor Code, unless otherwise indicated.

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 May 2, 2025, and 60 days from the date of transmission is July 1, 2025. This decision is issued by or on July 1, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on May 2, 2025, and the case was transmitted to the Appeals Board on May 2, 2025. 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 May 2, 2025.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

CRAIG SNELLINGS, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 1, 2025

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

**AM LIEN SOLUTIONS
LAW OFFICES OF ANTHONY CHOE**

DLM/oo

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

REPORT AND RECOMMENDATION ON
PETITION FOR RECONSIDERATION

I. INTRODUCTION

The Petitioner is a Cost Petitioner, LRA Interpreters, Inc., who read the Compromise and Release in this case to the Applicant, a non-English speaking injured employee.

The Petitioner claims that the undersigned erred by dismissing the Cost Petitioner's claim for lack of jurisdiction under Cal. Lab. Code sec. 4622(b)(2) and Cal. Code of Regs. sec. 9792.5.5(e).

The undersigned will recommend that the Petition be denied.

II. STATEMENT OF FACTS

On 1/7/2022 Applicant's attorney requested that the Cost Petitioner read the compromise and release to the Applicant in this matter. It is unknown where this may have been done, but both the Cost Petitioner and the Applicant's counsel are in Burbank.

The Cost Petitioner's owner testified that the services were not done by Zoom.

Billing for \$373 was sent to the Defendant (Ex.1). An Explanation of Review was dispatched to the Cost Petitioner on 1/26/2022 (Ex. D). Along therewith was partial payment of the invoice in the amount of \$156.56.

On 3/12/2022 the Cost Petitioner sent a letter requesting full payment (Ex.2). The letter suggests that no payment has been made. It claims that uncontested amounts must be made within 60 days. The letter is in the form of a letter only. They sent another letter on 5/1/2023 (Ex. 4).

There was no itemization of just how much time this service took or where it took place. The Cost Petition was tried on 11/25/2024. The undersigned issued a Findings of Fact on 12/10/2024 dismissing the petition for lack of jurisdiction in that the Cost Petitioner never requested a second bill review as set forth in sec. 4602(b)(2).

Petitioner filed a Petition for Reconsideration claiming that they are not subject to medical treatment nor medical-legal fee regulations since the services rendered are neither when one is simply reading a compromise and release.

The Findings of Fact were vacated. The matter was heard again on 2/20/2025. The subsequent Findings of Fact were issued on 4/7/2025 repeating the findings that the WCJ does not have jurisdiction over the petition under Cal. Lab. Code sec. 4622(b)(2) and Cal. Code of Regs. sec. 9792.5.5(e).

III. DISCUSSION

Cal. Lab. Code sec. 4620(a) describes interpreters' costs as medical-legal costs.

Cal. Code of Regs. sec. 9795.3 enumerates specific details for what reimbursement can be made for interpreters. Cal. Code of Regs. sec. 9795.3(a)(7) describes one of the events where interpreters' costs can be awarded as a medical-legal expense as:

“(a) Fees for services performed by a certified or provisionally certified interpreter, upon request of an employee who does not proficiently speak or understand the English language, shall be paid by the claims administrator for any of the following events: ...

...other similar settings determined by the Workers' Compensation Appeals Board to be reasonable and necessary to determine the validity and extent of injury to an employee.”

The Appeals Board has considered the reading of a settlement document to a non- English speaking claimant as a valid medical-legal service under sec. 9795.3(a) (7). *Osuna v. Sunview* 2005 Cal. Wrk. Comp. P.D. LEXIS 21.

Cal. Lab. Code sec. 4622(a) (1) requires that the Defendant serve an Explanation of Review whenever payment is denied, contested or only partially paid. The Explanation of Review must comply with the forms set forth in sec. 4603.3. It appears clearly that the Defendant complied by making timely partial payment and issuing the EOR on 1/26/2022 (Ex. D).

Cal. Lab. Code sec. 4622(b) (1) and Cal. Code of Regs. sec. 9792.5.5(b) require the Cost Petitioner to file a request for second bill review within 90 days from the receipt of the EOR. As stated in sec. 9792.5.5(d) therein the cost petitioner is required to provide specific information set forth therein and to use a prescribed form.

Cal. Lab. Code sec. 4620(b) (2) and Cal. Code of Regs. sec. 9792.5.5(e) indicate specifically that if a cost petitioner fails to request a second bill review the carrier is not liable for any additional charges.

The letter of 3/12/2022 is nothing more than a re-billing (Ex.2). It does not comply with subsection (d). The subsequent letter of 5/1/2023 is late and also does not comply since it was issued more than 90 days from the issuance of the EOR (Ex. 4).

Hence under sec. 4620(b) (2) the WCJ does not have jurisdiction to award any further benefits herein. The bill is deemed paid in full.

Reasonableness of Charges

This issue is moot considering that the Findings of Fact determined that the WCJ lacked any jurisdiction to evaluate the reasonableness of the charges herein. But the Petitioner alleges that the WCJ should have evaluated the reasonableness of the charges. Hence the following:

Cal. Code of Regs. sec. 9795.3(b)(1) sets forth the formulas for paying for interpreter services before the Board or in arbitration or deposition. Paragraph (2) sets forth the billing formula for “all other services.” There is no doubt at all that the charges herein come under subsection (b)(2).

As to the contents of the billing herein there is no offering of time spent to simply read a compromise and release. One does not know if in fact the services were in person or on the phone considering the fact that the services were performed in the midst of a pandemic. Hence billing beyond the 2-hour rate is unsupported. No additional time for unusual travel is justified either considering that the Applicant’s attorney’s offices and the offices of LRA are very close to each other. Hence under sec. 9795(b)(2) the fee paid to the cost petitioner appears to be reasonable.

The attempt to prove market value is not credible. Obviously from time-to-time certain cases may result in full payment of a billing. The reasoning is never noted, but it is axiomatic that to contest a billing as small as \$250 requires an attorney billing at \$200 per hour to make at least two court appearances and prepare exhibits in order to hopefully succeed in a legal challenge. Under these circumstances full payment can be deemed the preferable manner to resolve a small billing. It has little relevance to the actual existence of a market value for services that the Division of Industrial Relations puts at \$90.00 for two hours (sec. 9795.3).

In addition, by simply providing a few examples of full payment and neglecting to show what amounts were paid in contested matters, the attempt herein to show market value did nothing more than cherry pick the best examples. Hence the attempt to show market value fails. *Becerra v. Silk Apparel* 2019 Cal. Wrk. Comp. P.D. LEXIS 341.

The Findings of Fact herein found that the WCJ did not have jurisdiction to determine the reasonableness of the charges for the reasons set forth above.

IV. RECOMMENDATION ON PETITION FOR RECONSIDERATION

Based upon the reasoning and citations above, it is respectfully recommended that the Petition for Reconsideration be DENIED.

DATE: 5/2/2025

/s/ Dean M. Stringfellow

Dean Stringfellow

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE