

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

CHESTER TAYLOR, *Applicant*

vs.

**STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS INMATE CLAIMS,
legally uninsured; STATE COMPENSATION INSURANCE FUND,
adjusted by STATE CONTRACT SERVICES, *Defendants***

**Adjudication Number: ADJ13319691
Santa Barbara District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the presiding workers' compensation administrative law judge (PWCJ) 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.

In addition to the reasons set forth in the PWCJ's Report, we observe the following. Labor Code section 5100 grants the Workers' Compensation Appeals Board (WCAB) the authority to commute workers' compensation indemnity payments so long as "commutation is necessary for the protection of the person entitled thereto, or for the best interest of the applicant." (Lab. Code, § 5100(a).) However, subdivision (b) of section 5100 also requires that we consider whether commutation "will avoid inequity and will not cause undue expense or hardship to the applicant." (Lab. Code, § 5100(b).)

Whether or not to order commutation rests in the discretion of the Workers' Compensation Appeals Board (WCAB). (*Hulse v. Workers' Comp. Appeals Bd.* (1976) 63 Cal.App.3d 221, 226 [41 Cal.Comp.Cases 691].)

Here, applicant seeks the commutation of benefits from December 13, 2024 to the date of his life expectancy. (Minutes of Hearing and Summary of Evidence (Minutes), dated December 18, 2024, at p. 2:22.) Applicant's trial testimony described his monthly expenses, and

applicant testified that “he struggles to make ends meet” and that he estimates that his expense exceed his income by \$300 to \$600 *per month*, and that he borrows approximately \$600 *per week* from his daughter. (Minutes, at p. 3:12.) As the PWCJ has observed, it is unclear from the record how the applicant has arrived at these calculations, and insofar as the applicant bears the burden of establishing that “such commutation is necessary for the protection of the person entitled thereto, or for the best interest of the applicant,” we discern no abuse of discretion on the part of the PWCJ in determining that applicant did not meet that burden. (Lab. Code, § 5100(a); *Hulse, supra*, 633 Cal.App.3d at p. 226.)

Moreover, it is unclear from this record why the commutation of applicant’s outstanding entitlement to permanent disability benefits would not cause undue expense or hardship to the applicant where applicant has testified that his current monthly financial outlays exceed his income which includes permanent disability indemnity that would be diminished or extinguished following a commutation. (Lab. Code, § 5100(b).)

We note, however, that notwithstanding our denial of applicant’s current Petition, applicant remains free to petition the court for commutation of benefits upon an appropriate showing “[t]hat such commutation is necessary for the protection of the person entitled thereto, or for the best interest of the applicant,” and that the requested commutation “will avoid inequity and will not cause undue expense or hardship to the applicant.” (Lab. Code, § 5100(a)-(b).)

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 8, 2025

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

**CHESTER TAYLOR
GHITTERMAN, GHITTERMAN & FELD
STATE COMPENSATION INSURANCE FUND
OFFICE OF THE DIRECTOR-LEGAL UNIT (LOS ANGELES)**

SAR/abs

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

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION AND NOTICE OF TRANSMITTAL

I. INTRODUCTION

1. Applicant's Occupation: Kosher food manager/inmate laborer
 Date of Birth: []
 Date(s) of Injury: January 20, 2017
 Parts of Body Injured: Bilateral arms

2. Identity of petitioner: Applicant
 Timeliness: The Petition is timely
 Verification: The Petition is verified

3. Date of Issuance of Order: January 29, 2025

4. Petitioners' Contentions: WCJ erred in not awarding a commutation of permanent disability benefits

II. FACTS

The facts are not in dispute. Applicant's industrial injury was resolved by way of a Stipulated Findings & Award for 76%, issued on April 6, 2024.

Defendant, SCIF, has paid permanent disability at a weekly rate of \$160.00; and has paid \$49,406.39 through December 13, 2024.

The matter proceeded to trial based on applicant having filed a Petition for Commutation of the Award. Following trial, a Findings and Award issued, finding applicant failed to establish a need for the commutation requested. It is from that determination that applicant appeals.

III. DISCUSSION

It should be noted that the Opinion on Decision clearly states the basis for each issue decided. All medical reporting, transcript and documentary evidence relied upon is clearly

identified. However, to the extent that the Opinion on Decision may seem skeletal, pursuant to *Smales v. WCAB* (1980) 45 CCC 1026, this Report and Recommendation cures those defects.

Applicant filed a Petition for Commutation of his permanent disability benefits.

At trial, applicant testified to monthly income sources totaling \$2,428.00. This is comprised of social security benefits, his workers' compensation permanent disability, and SNAP benefits. No documentation was submitted substantiating this amount.

He further testified his monthly expenses consist of \$664.00 for rent, \$350.00 for food, \$140.00 per month on medical copays, and \$97.00 for dental expenses. This equals \$1,251.00. Again, no documentary evidence was submitted supporting these amounts. Applicant further testified he is in arrears anywhere from \$300.00 -\$600.00 per month (he borrows from his daughter). Again, no documentation supports these figures.

There is a difference in what he receives versus what he owes in the amount of \$1,177.00, and based on that difference, the Petition for Commutation was denied.

Applicant argues in its Petition for Reconsideration that the Court could have asked for additional documents. In the alternative, the Court has a duty to reopen and develop the record.

However, it is not the Court's burden of proof. It is up to applicant to testify or provide the Court with documentary or other evidence to meet its burden under Labor Code §5100(a). The Court can only rule and make a determination based on the evidence submitted. If applicant has additional supporting documentation, they can file a new petition.

IV. RECOMMENDATION

For the reasons stated, it is respectfully recommended that applicants' Petition for Reconsideration be denied based on the arguments and merits addressed herein.

DATE: February 7, 2025

Scott J. Seiden
PRESIDING WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE