

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

KANDAS RANCOUR, *Applicant*,

vs.

**MEDREVENU, LLC; MASSACHUSETTS BAY INSURANCE COMPANY,
administered by THE HANOVER INSURANCE GROUP, *Defendants***

**Adjudication Number: ADJ18473989
Marina del Rey District Office**

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

Defendant Massachusetts Bay Insurance Company, administered by The Hanover Insurance Group seeks removal based on the October 29, 2024 Finding and Order (served by the WCJ on November 13, 2024) Re: Additional QME Panel, wherein the workers' compensation administrative law judge (WCJ) found that the medical record in this case requires further development in the form of an additional Qualified Medical Evaluator (QME) panel in the medical specialty of psychiatry. For the reasons given herein, we will grant the petition and return the case to the trial level for further proceedings.

Defendant's petition contends that the order will cause significant prejudice and irreparable harm, and that reconsideration will not be an adequate remedy. Defendant's position is that it was error to order an additional QME panel in the specialty of psychiatry because no injury to the psyche has been alleged. Applicant's answer to the petition asserts that the lack of any claim of injury to the psyche is irrelevant, because the existing panel QME in neurology, Ronald Kent, M.D., indicated at his deposition of October 8, 2024 that an evaluation in psychiatry is required to determine whether applicant's complaints were industrial in origin.

The WCJ prepared a Report and Recommendation (Report) with detailed references to a medical report of QME Dr. Kent to support the finding and order for an additional panel in psychiatry. Although these observations do appear to be relevant to the issue of whether an additional QME panel is required, there appears to be an inadequate record to support the findings

and order. Neither the Report nor the deposition transcript of Dr. Kent has been filed, and there appears to be no petition requesting the additional panel.

A workers' compensation administrative law judge's (WCJ) decision must be based on admitted evidence and must be supported by substantial evidence. (*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, § 10566.) "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] [a full and complete record allows for a meaningful right of reconsideration]; *Lewis v. Arlie Rogers & Sons* (2003) 69 Cal.Comp.Cases 490, 494, emphasis in original ["decision [must] be based on an ascertainable and adequate record," including "an *orderly identification* in the record of the evidence submitted by a party; and *what evidence is admitted or denied admission*).

In this case, the Electronic Adjudication Management System (EAMS) and FileNet lack any advance notice of the decision before it was made, and there is no record of the evidence upon which the findings and order appear to be based, specifically the medical report and deposition transcript of Dr. Kent that is referred to in the Petition, Answer, and Report.

The Appeals Board will grant removal only if substantial prejudice or irreparable harm will result if removal is not granted, and reconsideration of a future final decision will not be an adequate remedy. (Cal. Code Regs., tit. 8, § 10955(a); *Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) In this case, for the reasons set forth above, we are persuaded that the petitioning defendant will sustain significant

prejudice if deprived of due process and an adequate evidentiary record before a decision is issued on the disputed issue of whether an additional QME panel in psychiatry is required.

Accordingly, for the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal based on the October 29, 2024 Order is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Appeals Board that the October 29, 2024 Findings and Order is **RESCINDED**, and all issues are deferred, including the issue of whether an additional QME panel is required.

IT IS FURTHER ORDERED that this matter is returned to the trial level for further proceedings consistent with this Opinion and Decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 7, 2025

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

**KANDAS RANCOUR
OZUROVICH, SCHWARTZ & BROWN
THE HANOVER LAW OFFICE**

CWF/cs

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