

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

MARIBEL ESMERALDA JUAREZ, *Applicant*

vs.

**BIG GREEN CLEANING COMPANY; ACE AMERICAN INSURANCE COMPANY,
Administered By CORVEL, *Defendants***

**Adjudication Number: ADJ19841125
Santa Barbara District Office**

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

Applicant seeks reconsideration of a workers' compensation administrative law judge's Expedited Findings of Fact of June 26, 2025, wherein it was found that "Applicant is not entitled to treatment by Medical Provider Network provider Dr. Proctor at the office location in Santa Barbara which is not listed in Defendant's [medical provider network (MPN)]." Defendant conceded that orthopedist Christopher Proctor, MD does appear in defendant's MPN, but only for services provided at his Solvang office. In this matter, while employed on May 14, 2024 as a laborer, applicant sustained industrial injury to her shoulder.

Applicant contends that she should be allowed to treat with Dr. Proctor at his Santa Barbara office. We have received an Answer from defendant, and the WCJ has filed a Report and Recommendation on Petition for Reconsideration.

As explained below, we will grant reconsideration, rescind the WCJ's decision, and return the matter to the trial level for further development of the record and decision, so that this matter may be reanalyzed on a more complete record.

Preliminarily, we note that former Labor Code section 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, 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 July 15, 2025 and 60 days from the date of transmission is Saturday, September 13, 2025. The next business day that is 60 days from the date of transmission is Monday, September 15, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)¹ This decision is issued by or on September 15, 2025, so 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 July 15, 2025, and the case was transmitted to the Appeals Board on July 15, 2025. Service of the Report and transmission of the

¹ 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.

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 July 15, 2025.

Turning to the merits, in this matter, the parties went to trial having presented no documentary evidence or testimony. We note that in *Tabak v. San Diego Unified Sch. Dist.* (2014) 2014 Cal.Wrk.Comp. P.D. LEXIS 416, *14-15 (Appeals Bd. panel), an injured worker was not allowed to treat at a location not listed in the employer's MPN because the MPN listing contained a disclaimer stating that "any other locations and/or affiliations with these providers are not under contract and are therefore not within the WellComp Medical Provider Network." In *Pasquel v. Boeing Co.* (2015) 2015 Cal.Wrk.Comp. P.D. LEXIS 230, *4 (Appeals Bd. panel), the majority of a split panel held, "the common theme in determining whether the medical treatment was considered MPN treatment was whether the injured worker received notice through the MPN that the listed physician was treating in an authorized facility, as there is no statutory requirement that medical treatment be provided at a listed location. Only where there is language in the MPN listing which expressly limits the specific location at which a treating physician may provide treatment can medical treatment at a different location be considered treatment outside the MPN."

We note that *Tabak* appears to have been issued before the effective date of Administrative Rule 9767.3(c)(4) (Cal. Code Regs., tit. 8, § 9767.3, subd. (c)(4)), which states, "An MPN determines which locations are approved for physicians to provide treatment under the MPN. Approved locations are listed in an MPN's provider listing; however, an MPN has the discretion to approve treatment at non-listed locations." While *Pasquel* was issued after the effective date, it does not discuss this regulation.

In any case, we believe the record should be augmented to include any relevant evidence including screenshots of the MPN list and the contract between defendant and Dr. Proctor so that this issue can be fully analyzed on a complete record.

Additionally, it is not clear whether applicant is alternatively arguing that defendant's MPN runs afoul of the access standards set forth in Administrative Rule 9767.5(a) (Cal. Code Regs, tit. 8, § 9767.5, subd. (a)). If so, this issue should be clearly listed in the further proceedings, evidence should be presented on the issue, and the issue should be analyzed the parties and the WCJ.

We therefore grant reconsideration, rescind the WCJ's decision, and return this matter to the trial level for further development of the record, analysis, and decision. The parties and the WCJ should analyze the existing and competing legal authorities on a complete record. We express no opinion on the ultimate resolution of any issue in this case.

For the foregoing reasons,

IT IS FURTHER ORDERED that Applicant's Petition for Reconsideration of the Expedited Findings of Fact of June 26, 2025 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Expedited Findings of Fact of June 26, 2025 is **RESCINDED** and that this matter is **RETURNED** to the trial level for further proceedings and decision consistent with the opinion herein.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 15, 2025

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

**MARIBEL ESMERALDA JUAREZ
WOLFF WALKER LAW
YRULEGUI & ROBERTS**

DW/oo

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