

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

**MICHAEL GARCIA, *Applicant***

**vs.**

**CITY OF SEASIDE, permissibly self-insured;  
administered by ATHENS ADMINISTRATORS, *Defendants***

**Adjudication Number: ADJ13458859  
Salinas District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We previously granted reconsideration on our own motion of the Opinion and Decision After Reconsideration (“Decision”) issued by the Workers’ Compensation Appeals Board on February 7, 2024. This is our Opinion and Decision After Reconsideration.

Our prior Decision affirmed the Findings of Fact (Findings) issued by the workers' compensation administrative law judge (WCJ) on May 2, 2022, wherein the WCJ found in pertinent part that defendant owed applicant Labor Code<sup>1</sup> section 4850 benefits for the period beginning November 9, 2021, and continuing for one year, less any temporary disability indemnity or section 4850 benefits paid during that period.

Defendant contends that applicant’s entitlement to section 4850 benefits ran concurrently under both the psychiatric cumulative injury claim (ADJ13458859) and the prior hypertension cumulative injury claim (ADJ11613231), during the period from November 2, 2020, through October 18, 2021, so applicant is not entitled to any additional section 4850 benefits as a result of the psychiatric injury claim.

We have received an answer from applicant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

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<sup>1</sup> All future references are to the Labor Code unless noted.

We have reconsidered the allegations of the Petition for Reconsideration, the Answer, and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, as our Decision After Reconsideration we will rescind the February 7, 2024 Opinion and Decision and substitute a new Opinion and Decision in its place, which continues to affirm the WCJ's Findings.

## FACTS

Applicant claimed injury to his nervous system/psyche while employed by defendant as a firefighter during the period from December 20, 2018, through January 5, 2020 (ADJ13458859). He had previously claimed injury to his heart and cardiovascular system in the form of hypertension during the periods from July 17, 2016, through July 17, 2017 (ADJ11613231), and from December 20, 2017, through December 20, 2018 (ADJ11814983).

Applicant was deemed temporarily totally disabled (TTD) as a result of his psychiatric injury as of November 1, 2020. (Joint Exh. J1, Nadine La Fleur, Psy.D., March 12, 2021, p. 26; Def. Exh. D-2, Edward Duncan, Ph.D., August 1, 2021.) Defendant paid applicant section 4850 benefits for disability caused by his hypertension (ADJ11613231) during the period from November 2, 2020, through November 1, 2021. (Def. Exh. 4, Indemnity printout.)

In 2021, the parties specifically tried the issue of "Whether Defendant's payment of Labor Code 4850 benefits on a different case precludes Applicant from getting Labor Code 4850 benefits in this subsequent injury case." (Minutes of Hearing and Summary of Evidence, November 4, 2021, p. 2, lines 22-24.)

On December 1, 2021 a Findings of Fact issued, which included the following findings: "Applicant is entitled to up to one year of Labor Code section 4850 benefits per injury."; and, "Defendant's payment of Labor Code section 4850 benefits on Applicant's companion claim does not preclude section 4850 benefits in this claim." (See Findings of Fact, December 1, 2021, Findings #9-10 (emphasis added).)

Defendant filed a Petition for Reconsideration of the 2021 Findings, which was dismissed on February 18, 2022, at which point the December 1, 2021 Findings became final. The parties proceeded to an expedited hearing on March 29, 2022, because defendant refused to pay temporary disability and section 4850 benefits pursuant to the December 2021 Findings. (Minutes of Hearing, March 29, 2022, p. 2.) The parties submitted the following issues at the hearing:

1) Which periods of 4850/TD benefits, if any, paid in Applicant's 7/17/17 hypertension claim overlap with periods of 4850/TD due in this claim (CT through 1/5/20)?

2) Whether Defendant may take credit for a claimed overpayment of 4850 benefits (from 10/18/21 through 11/1/21) in Applicant's 7/17/17 hypertension claim against 4850 benefits due under this claim.

(Minutes of Hearing, March 29, 2022, p. 2.)

The WCJ decided the specified periods of overlap and in concurrence with the prior 2021 Findings of Fact, allowed applicant a period of section 4850 benefits for each individual injury.

Defendant now submits a petition for reconsideration, which on its face purports to challenge the WCJ's 2022 Findings, but in substance merely attempts to relitigate the issues decided in the 2021 Findings, which are final and are considered the law of this case.

### **DISCUSSION**

Issue preclusion, also known as collateral estoppel, applies to bar a party from relitigating an issue already decided if the following requirements are met: (1) "the issue sought to be precluded from relitigation must be identical to that decided in a former proceeding"; (2) "this issue must have been actually litigated in the former proceeding"; (3) "it must have been necessarily decided in the former proceeding"; (4) "the decision in the former proceeding must be final and on the merits"; and (5) "the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding." *Branson v. Sun-Diamond Growers of California*, 24 Cal.App.4th 327, (1994) (quoting *Lucido v. Superior Court*, 51 Cal.3d 335, 341, (1990), cert. denied, 500 U.S. 920 (1991)).

The WCAB is bound by the basic rules of law and procedure. (Citation.) These basic rules of procedure require the board to give res judicata effect to its final decisions. (Citations.) The fact that the WCAB "is not bound by common law or statutory rules of evidence and procedure, may receive hearsay evidence, may proceed informally, and may adopt less stringent rules and regulations than those applicable in court does not alter the applicability of the doctrine of res judicata to its findings." (Citation.)

(*Dow Chemical Co. v. Workers' Comp. Appeals Bd.* (1967) 67 Cal.2d. 483, 491 (citations omitted).)

The Appeals Board dismissed defendant's 2021 petition believing that defendant only challenged language in the WCJ's opinion and did not challenge any of the Findings of Fact.<sup>2</sup> Defendant sought no appeal of the 2021 dismissal. Accordingly, the law of this case is that applicant is entitled to two separate periods of section 4850 benefits, one for each injury. Defendant challenges that holding, but we *cannot* decide defendant's challenge as the matter was previously decided, and defendant failed to appeal. The 2021 Findings are final and binding upon the parties. Defendant's 2022 Petition for Reconsideration does not substantively challenge the periods of disability found. Instead, defendant argues against citations and findings in the **2021 Findings of Fact**. We cannot review these arguments as the 2021 Findings are final. To the extent that defendant improperly seeks to relitigate those issues decided in 2021, defendant is admonished that such tactics could be construed as either frivolous and/or in bad faith.

Accordingly, as our Decision After Reconsideration as our Decision After Reconsideration we rescind the February 7, 2024 Opinion and Decision and substitute a new Opinion and Decision in its place, which continues to affirm the WCJ's Findings.

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<sup>2</sup> To the extent that the order dismissing defendant's prior petition for reconsideration may have been in error, defendant could have written to the Appeals Board with prompt notice of the error and requesting appropriate relief. Alternatively, defendant could have sought writ of review, and in cases where the Appeals Board notices error on review, the Appeals Board will write to the court admitting such error and request the matter be vacated and returned.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the February 7, 2024 Opinion and Decision After Reconsideration by the Workers' Compensation Appeals Board is **RESCINDED** and the following is **SUBSTITUTED** therefor:

**IT IS ORDERED** that the Findings of Fact issued on May 2, 2022 by the WCJ are **AFFIRMED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**AUGUST 19, 2025**

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

**MICHAEL GARCIA  
BRITTANY HUYNH  
MACINTYRE & WHITE**

**EDL/mc**

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