

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

ANTHONY ALVAREZ, *Applicant*

vs.

**WEISER IRON; CALIFORNIA INSURANCE
GUARANTEE ASSOCIATION on behalf of
CALIFORNIA COMPENSATION & FIRE,
in liquidation; WELK HOSPITALITY GROUP;
EVEREST NATIONAL INSURANCE COMPANY,
administered by SEDGEWICK CLAIMS
MANAGEMENT SERVICES,
LIBERTY MUTUAL INSURANCE, *Defendants***

**Adjudication Number: ADJ10388154
Pomona District Office**

**OPINION AND ORDERS
DISMISSING PETITION FOR
RECONSIDERATION AND
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

Applicant and defendant, Weiser Iron and California Insurance Guarantee Association for California Compensation & Fire Insurance Company in Liquidation (CIGA), each seek reconsideration of the Findings and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on November 26, 2025, wherein the WCJ found that for purposes of Labor Code¹ section 5412, applicant sustained a cumulative trauma injury ending on September 28, 2014 which is barred by the statute of limitations under section 5405. Based on these findings, the WCJ ordered that applicant take nothing further by way of his claim herein.

Applicant contends that the WCJ erred in finding his claim barred by the statute of limitations pursuant to section 5405, arguing that the WCJ should have found the statute of limitations tolled based on the date of last furnishing of medical benefits pursuant to section

¹ All future references are to the Labor Code unless noted.

5405(c) and further, that the WCJ should not have attributed section 5412 “knowledge” to applicant based on service of a medical report on applicant’s attorney.

CIGA also contends that the WCJ erred in finding applicant’s claim barred by the statute of limitations, arguing that the statute of limitations should be tolled based on their last furnishing of medical benefits pursuant to section 5405(c).

We have not received an answer from any party to either Petition.

The WCJ issued two Reports and Recommendation on Reconsideration (Reports) recommending that we deny CIGA’s Petition and dismiss applicant’s Petition as untimely.

We have considered the allegations in the Petitions for Reconsideration and the contents of the WCJ’s Reports. Based on our review of the record and for the reasons discussed below, we will dismiss applicant’s Petition for Reconsideration as untimely, grant CIGA’s Petition for Reconsideration, rescind the November 26, 2025, F&O, and return this matter to the trial level for further proceedings and decision. This is not a final decision on the merits of any issues raised in the petition and any aggrieved person may timely seek reconsideration of the WCJ’s new decision.

FACTS

Applicant claimed to have sustained a specific injury on August 12, 1998 while employed by defendant Weiser Iron to his neck, back and bilateral knees. (ADJ2351098.) At the time of injury, defendant was insured by California Compensation Insurance Company, in liquidation. As a result, California Insurance Guarantee Association (CIGA) took over the administration of the claim.

G. Sunny Uppal, M.D., served as an Agreed Medical Evaluator (AME) for this claim. On July 23, 2005, Dr. Uppal conducted an initial evaluation of applicant, and issued a medical report dated July 26, 2005. (Joint Exhibit 11.) Dr. Uppal described the August 12, 1998, industrial event resulting in injuries to the neck, low back and bilateral knees. (*Id.* at pp. 2; 5.) Dr. Uppal reviewed medical records of the applicant, noting that on an industrial basis, applicant underwent several left knee surgeries, a right knee surgery, and extensive conservative care to his cervical spine and low back up to and including cervical injection therapy. Further noted was that applicant continued to receive medical treatment by his primary treating physician (PTP), Ralph Steiger, M.D. (Joint Exhibit 11, Review of Medical Records, at pp. 9-19.) Applicant was declared to be permanent and stationary and was assigned work restrictions. (Joint Exhibit 11, at pp. 5-6.) For the neck and low back, Dr. Uppal apportioned 50% of applicant’s permanent disability to industrial causation and

50% to degenerative changes; for the left knee, he apportioned 90% of applicant's permanent disability to industrial causation and 10% to degenerative changes; for the right knee, he apportioned 75% of applicant's permanent disability to industrial causation and 25% to degenerative changes. (*Id.* at pp. 6-7.) Dr. Uppal assigned applicant 16% whole person impairment (WPI), indicated future medical was necessary and declared applicant to be a Qualified Injured Worker (QIW). (*Id.* at p. 7.)

On July 18, 2006, Dr. Uppal reevaluated applicant. (Joint Exhibit 10.) Applicant remained permanent and stationary with the same work restrictions and apportionment, but his impairment increased from 16% WPI to 23% WPI. (*Id.* at p. 3.) Applicant continued to treat on an industrial basis. (Joint Exhibit 10, Review of Medical Records, at pp. 6-11.)

On August 31, 2008, Dr. Uppal reevaluated applicant. (Joint Exhibit 9.) Dr. Uppal noted that applicant continued to treat on an industrial basis. (*Id.* at p. 2.) Applicant remained permanent and stationary and his disability impairment assignment was unchanged. (*Id.* at p. 4.) As applicant was currently working, he was no longer a QIW. (*Id.*)

At his next evaluative appointment on August 23, 2014, Dr. Uppal took an updated employment history from applicant as follows:

He continued to work with Brown and Strauss as a material inspector. He was required to inspect the material, inspect truck loads, operate a forklift, and manually lift steel material. He states he worked for about one year with the employer. He states that his work duties would cause increased pain in the neck, low back and bilateral knees.

The examinee states that thereafter he sought employment at the Coca-Cola Company as a Merchandiser (date un-recalled). He was required to lift cases of soda, build and take down displays, drive his own vehicle to various store locations, push and pull a cart with sodas, bend, stoop, squat, prolonged standing and walking, stocking shelves, stocking refrigerators. He states that his work duties would cause increased pain in the neck, low back and bilateral knees. He states he was employed for about five months.

The examinee states that he began working with Imperial Rubber as a sales driver (date unrecalled). He continued to notice symptoms in the neck, low back and bilateral knees. He states he was required to drive a small diesel truck and occasionally drive a 22 foot stake bed. He was required to climb up and down the truck and drive for a long period of time, which would cause increased pain in the neck, low back and bilateral knees. He states that on May 6, 2012, he was laid off by his employer and his position was eliminated.

His work at Coca-Cola and Imperial Rubber did involve a lot of walking and looking for materials.

In 2012 (date Un-recalled), he states he began working as a laborer with a cylinder company through a job agency. He states he was required to mix chemicals, mixtures, open and close gates and doors to machinery which required him to do a lot of bending, lifting and twisting. He would also lift a metal cylinder, insert the cylinder into the oven machine, and pull the cylinders out of the machine which would become too tight to remove. He had to manually pull, twist, kick and strike the cylinder with his right hand. He states that due to above work activities he noticed increased pain in the right side of his neck, right side of his lower back, bilateral knee and right hand/wrist. He states he reported his injury to his employer and was sent for medical treatment the following day after reporting his injuries (date un-recalled).

(Joint Exhibit 8, at pp. 2-3.)

On August 23, 2014, applicant was working for Welk Hospitality Group:

He is required for signing people in for tours. He is required to walk and stand. He states that his employer accommodates his work restriction and allows him to sit when needed. He is also scheduled to work two days and then two days off.

(*Id.* at p. 4.)

On August 23, 2014, applicant remained permanent and stationary, but Dr. Uppal indicated that “additional treatment and apportionment needs to be done to subsequent employers.” Applicant’s permanent disability increased significantly. (*Id.* at pp. 6-7.) Dr. Uppal apportioned the applicant’s permanent disability as follows:

I would apportion 50% of his impairment to the neck, lumbar spine, right knee and left knee to the injury while working for Weiser Iron. The remainder of the 50% should be due to his employment with Coca Cola, Brown and Strauss, Imperial Rubber, the cylinder company, as well as Welks Resorts. I would apportion this to be equal to each of the employers; therefore, 10% to Coca-Cola, 10% to Brown and Strauss, 10% to Imperial Rubber, 10% to cylinder company and 10% to Welks Resorts.

(*Id.* at p. 7.)

On June 29, 2015, a Doctor’s First Report of Occupational Injury or Illness was filed by Arnaldo Aleman, D.C. (CIGA’s Exhibit B.) To Dr. Aleman, his newly designated PTP, applicant reported only one date of injury: August 12, 1998. (*Id.* at p. 1.) Subsequently, both applicant and Dr. Aleman were noticed that he was not an authorized medical provider network treater. (CIGA’s

Exhibits H-J.) Nonetheless, Dr. Aleman was paid for his services by CIGA on March 9, 2016. (CIGA's Exhibit A, at p. 39.)

On April 25, 2016, applicant filed an Application for Adjudication of Claim (Application) alleging that while employed by defendant employer, Weiser Iron, during the period August 12, 1998 to April 24, 2016, as an iron worker, he sustained injury arising out of and in the course of employment (AOE/COE) to knee patella. The Application was later amended to allege employment with defendant Welk Resort Properties².

On July 12, 2016, defendant Welk Hospitality Group Inc., insured by Everest National Insurance Company administered by Sedwick Claims Management Services (Everest), issued a Notice of Denial of Claim for Workers' Compensation Benefits. (Everest's Exhibit A.)

On July 3, 2017, Dr. Uppal issued a supplemental report in response to a request for clarification as it applies to defendants' responsibility for medical treatment as follows:

I would suggest that it would be accurate to apportion the liability for medical treatment in similar fashion with permanent disability. I would, therefore, apportion 50% of the liability for treatment to the specific injuries at Weiser Iron. I would apportion the remaining 50% to continuous trauma associated with the applicant's employment at Coca-Cola, Brown-Strauss, Imperial Rubber and Welk Resorts. I would assign 10% of the liability to each of the aforementioned employers.

(Joint Exhibit 7, at p. 1.)

On November 16, 2018, Dr. Uppal reviewed the applicant's March 20, 2018, deposition transcript and issued a supplemental report. (Joint Exhibit 6.) Applicant was continuing to receive medical treatment with a knee doctor at Arrowhead, and on December 7, 2017, applicant underwent back surgery. (*Id.* at p. 2.) Dr. Uppal determined that applicant's work since 2014 was "relatively benign" and that with respect to a December 2, 2013, date of injury, such injury would be subsumed in his continuous trauma at Welk Resorts. (*Id.* at pp. 2-3.)

² On May 31, 2016, applicant filed an amended Application alleging that while employed by Welk Resort Properties Inc, during the period August 12, 1998 to April 24, 2016, as a salesman, he sustained injury AOE/COE to knee patella, neck and back. (Application, May 31, 2016, at p. 9.)

Further, on May 17, 2016, applicant completed a DWC-1 form alleging he sustained industrial injury while employed by Welk Resort Properties, Inc. to his bilateral knees, lumbar spine, and neck, during the period August 12, 1998 to April 24, 2016. (Everest's, Exhibit B.)

On August 29, 2017, applicant again filed an amended Application alleging that while employed by Welk Resort Properties Inc, during the period August 12, 1998 to March 31, 2015, as an iron worker, he sustained injury AOE/COE to knee patella. (Application, August 29, 2017, at p. 9.)

On October 26, 2019, Dr. Uppal reevaluated applicant for his specific industrial injury and took an updated history. (Joint Exhibit 5.) Applicant had been working since 2017 at a model homes sales facility in a sit-down position with no industrial exposure. (*Id.* at pp. 3; 7.) Under causation, Dr. Uppal stated that causation is “industrially related.” Additionally, Dr. Uppal addressed apportionment of permanent disability as follows:

There is a reasonable basis for apportionment in this case. I would apportion 50% of his permanent impairment for the neck, low back, right knee and left knee to the specific injury that occurred on August 12, 1998 while working for Weiser Iron. I would apportion 10% of his permanent impairment to age-related degenerative changes and body habitus. The remaining 40% would be equally apportioned between his work for Coca-Cola, Brown-Strauss, Imperial Rubber and Welk Resorts.

(*Id.* at p. 7.)

On November 2020, Dr. Uppal was deposed. Dr. Uppal confirmed that both applicant’s specific injury and a cumulative trauma injury caused his need for medical and indemnity benefits:

Q. Okay. So my first question, Dr. Uppal, is whether in your opinion both of the injuries, the specific injury and the continuous trauma injury, contributed to the applicant’s need for treatment to his cervical, to his lumbar, and to the bilateral knees. Do you have an opinion on those issues?

A. Yes, I do have an opinion, and my opinion is I do -- I do feel they did.

...

Q. ...Now, the – that opinion, will it apply to the past medical treatment that has been provided to the applicant as well to his need for future medical treatment?

A. Yes, sir.

Q. Okay. Now, let me ask you basically the same question but as it applies to the applicant’s need for temporary disability. Did the specific and continuous trauma injuries combine jointly to give rise to his need for temporary disability as well?

A. Yes, sir.

(Joint Exhibit 12, at pp. 8:8-9:15.)

On May 20, 2022, Dr. Uppal reevaluated applicant post November 2020 left total knee replacement and issued a medical report dated May 24, 2022. (Joint Exhibit 3.) Dr. Uppal completed a causation analysis as follows:

CAUSATION:

I continue to find that the August 12, 1998 injury, when he was at a construction site and fell into a hole, caused injury to his left knee culminating in the need for surgery. His cervical spine, lumbar spine and right knee problems have come on as compensable to that injury. I have previously determined that his work with Brown & Strauss as a material inspector contributed to his neck, back and bilateral knee impairment. I have previously determined that his work with Welks Resorts as a salesman contributed to his neck, back and bilateral knee impairment. I have previously determined that his subsequent employment with Coca-Cola as a Merchandiser contributed to his neck, back and bilateral knee impairment. I have previously determined that his work with Imperial Rubber as a sales driver also contributed to his neck, back and bilateral knee impairment.

(*Id.* at p. 8.)

On November 28, 2022, applicant began treating with Yury Furman, M.D., as PTP and continued to treat through August 20, 2023. (CIGA's Exhibits C-F.)

On July 3, 2025, Dr. Uppal restated that as subsequent employers are responsible for 40% of applicant's permanent disability and subsequent employers would be responsible for contribution to applicant's need for medical treatment. (Joint Exhibit 1, at p. 2.)

DISCUSSION

I.

Preliminarily, we note that former 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, 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 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 December 22, 2025 and 60 days from the date of transmission is February 20, 2026. This decision was issued by or on February 20, 2026, 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 in response to CIGA’s Petition by the WCJ, the Report was served on December 22, 2025, and the case was transmitted to the Appeals Board on December 22, 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 December 22, 2025.

II.

Next, we address the issue of the timeliness of applicant’s Petition.

There are 20 days allowed within which to file a petition for reconsideration from a “final” decision. (Lab. Code, §§ 5900(a), 5903.) This time is extended by 10 calendar days if service is made to an address outside of California but within the United States. (Cal. Code Regs., tit. 8, § 10605(a)(2).) While applicant and his attorney received service of the decision within California, defendant Liberty Mutual Insurance was served at an address outside of California. Accordingly,

and to observe due process for all parties, we interpret Rule 10605 as extending the time to file for all parties being served.

This time limit is jurisdictional and therefore, the Appeals Board has no authority to act upon or consider an untimely petition for reconsideration. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650, 656]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008, 1011]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73, 75-76].)

Here, the F&O was served on November 26, 2025. As such, the 30-day period in which to file the Petition extended to Friday, December 26, 2025. Applicant filed their Petition on December 29, 2025, making it untimely. Thus, the Appeals Board does not have jurisdiction to hear the Petition.

Accordingly, we dismiss applicant's Petition as untimely.

III.

We now turn to the merits of the defendant's petition. The questions to be determined in this case are whether there is one or multiple cumulative injuries, what is (or are) the legal date (or dates) of injury pursuant to section 5412, and whether the injury or injuries are barred by the statute of limitations under section 5405(c). To answer these questions, we must first determine if applicant established that he sustained an industrial cumulative trauma injury or injuries pursuant to section 3208.1.

1. Causation under section 3208.1.

Section 3208.1 states in relevant part:

(b) "...Cumulative," occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment. The date of a cumulative injury shall be the date determined under Section 5412.

(§ 3208.1.)

The number and nature of the injuries sustained are questions of fact for the WCJ. (*Western Growers Ins. Co. v. Workers' Comp. Appeals Bd. (Austin)* (1993) 16 Cal.App.4th 227, 234 [58 Cal.Comp.Cases 323]; see also Lab. Code, § 3208.2.) "In any given situation, there can be more

than one injury, either specific or cumulative or a combination of both, arising from the same event or from separate events.” (*Austin, supra*, at p. 234.)

In this case, applicant has alleged he sustained an industrial cumulative trauma to his neck, back, and bilateral knees while employed by both Weiser Iron and Welk Resort Properties, Inc., during the period through March 31, 2015. (Minutes of Hearing and Summary of Evidence (MOH/SOE), November 18, 2025, at p. 2:11-14.) At trial, the WCJ found that applicant sustained a section 5412 cumulative trauma injury through September 28, 2014. No party has challenged the WCJ’s finding a of cumulative industrial injury, however the salient issue is the actual date of injury or injuries pursuant to section 5412, as this date is relevant to the issue of whether applicant’s continuous trauma claim is barred by the statute of limitations. Unfortunately, the WCJ’s finding that there was a cumulative trauma injury “ending on September 28, 2014,” based upon an alleged 5412 date of injury of that date conflates the *period* of industrial exposure with the *date* of injury for purposes of the statute of limitations.

The WCJ indicates he relied upon the medical reporting of AME³, G. Sunny Uppal, M.D., “due to their agreed upon status” of the parties to utilize Dr. Uppal to determine causation as to the specific industrial injury. (Opinion on Decision (Opinion), November 26, 2025, at p. 2.) In his September 4, 2014, report, Dr. Uppal took an updated employment history from applicant and determined that he also suffered industrial exposure at his employments after Weiser Iron. Dr. Uppal assigned permanent impairment of applicant’s neck, lumbar spine, right knee and left knee to the “injury” while working for Weiser Iron. The remainder of the 50% was apportioned be equal to each of applicant’s five additional employers subsequent thereto; 10% to Coca-Cola, 10% to Brown and Strauss, 10% to Imperial Rubber, 10% to cylinder company and 10% to Welks Resorts.” (Joint Exhibit 8, at p. 7.)

At his deposition of November 20, 2020, upon questioning, Dr. Uppal indicated that both the specific injury and the cumulative injury would be responsible for temporary disability related to an upcoming left total knee replacement surgery. Repeatedly, Dr. Uppal indicated that both the specific injury and the cumulative injury caused a need for medical treatment to applicant’s neck, back and bilateral knees.

³ Initially, Dr. Uppal served as the AME between applicant and CIGA. As of November 16, 2018, defendant, Welk Hospitality Group; Everest and Liberty Mutual Insurance, may have joined the AME because Dr. Uppal’s reporting is now addressed to their counsel of record. (Joint Exhibit 5, at p. 9.)

2. Date of injury under section 5412.

The injury claimed in this matter is a cumulative trauma injury. Date of injury for cumulative injury claims is established under section 5412, which states:

The date of injury in cases of occupational diseases or cumulative injuries is that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment.”

(§ 5412)

As used in section 5412, “disability” means either compensable temporary disability or permanent disability. (*Chavira v. Workers’ Comp. Appeals Bd.* (1991) 235 Cal.App.3d 463 [56 Cal.Comp.Cases 631]; *State Comp. Ins. Fund v. Workers’ Comp. Appeals Bd. (Rodarte)* (2004) 119 Cal.App.4th 998 [69 Cal.Comp.Cases 579].) Medical treatment alone is not “disability” for purposes of determining the date of a cumulative injury pursuant to section 5412, but it may be evidence of compensable permanent disability. (*Rodarte, supra*, 119 Cal.App.4th at p. 1005.) Likewise, modified work is not a sufficient basis for finding compensable temporary disability, but it may be indicative of a compensable permanent disability, especially if the worker is permanently precluded from returning to their usual and customary job duties. (*Id.*)

The issue of disability is a medical question beyond the bounds of ordinary knowledge, and, as such, will typically require medical evidence. (*City & County of San Francisco v. Industrial Acc. Com. (Murdock)* (1953) 117 Cal.App.2d 455 [18 Cal.Comp.Cases 103]; *Bstandig v. Workers’ Comp. Appeals Bd.* (1977) 68 Cal.App.3d 988 [42 Cal.Comp.Cases 114].) Knowledge requires more than an uninformed belief. Because the existence of disability typically requires medical evidence, an “applicant will not be charged with knowledge that his disability is job related without medical advice to that effect unless the nature of the disability are such that applicant should have recognized the relationship between the known adverse factors involved in his employment and his disability.” (*City of Fresno v. Workers’ Comp. Appeals Bd. (Johnson)* (1985) 163 Cal.App.3d 467, 473 [50 Cal.Comp.Cases 53].)

Here, the WCJ determined applicant’s claim was barred by the statute of limitations, ascribing a section 5412 date of injury of September 28, 2014, based upon an assumption that applicant gleaned the requisite disability and knowledge of his continuous trauma injury based upon the service of the AME Dr. Uppal’s medical report of September 4, 2014 to his attorney, however, an applicant’s knowledge cannot necessarily be presumed based solely upon written

medical reporting. While applicant may gain the requisite knowledge and disability from speaking with the doctor at his evaluative appointment and being advised by a doctor that he has an industrial injury, it does not appear from the applicant's testimony at trial that he was questioned as to whether Dr. Uppal advised him at his examination on August 23, 2014 that he suffered an industrial injury from employment after Weiser Iron.

In fact, the WCJ stated in his Opinion that:

[A]pplicant seemed honest and did not try to fluff up things he did not understand. He was direct and stated honestly when he simply did not know or did not recall. During applicant's testimony, he appeared confused regarding what a cumulative trauma was, his own cumulative trauma and at some point, mistakenly believed the present cumulative trauma was "closed". (Summary of Evidence page 5, line 16 to 18; page 6, line 3 to 6) Applicant seemed most confident in recollecting that he did indeed have a 1998 specific injury that was "open" and he was treating on. (Summary of Evidence page 6, line 4 to 5).

(Opinion, November 26, 2025, p. 5.)

Applicant's lack of knowledge sufficient to determine a section 5412 injury based upon a September 28, 2014 date of injury finds further support in the medical reporting submitted by CIGA. On June 29, 2015, applicant went out of network and chose Arnaldo Aleman, D.C., to continue as his PTP for his injuries. To Dr. Aleman, applicant reported only one date of injury: August 12, 1998. (CIGA's Exhibit B., at p. 1.)

Further, at trial, applicant was queried about whether he read Dr. Uppal's report dated September 4, 2014, and whether he had confidential discussions with his former attorney about said report. Applicant stated he could not recall if he read every report that came in and whether he discussed them with [attorney] Fattorosi. (MOH/SOE, November 18, 2025, p. 5:15-16.)

Thus, based upon the above, we believe the analysis of the WCJ as to the 5412 date of injury is lacking in support based upon the existing record.

3. Time limits for benefits collection proceedings per section 5405(c).

Lastly, we consider section 5405(c) which states:

The period within which proceedings may be commenced for the collection of the benefits provided by Article 2 (commencing with Section 4600) or Article 3 (commencing with Section 4650), or both, of Chapter 2 of Part 2 is one year from any of the following:

...

(c) The last date on which any benefits provided for in Article 2 (commencing with Section 4600) of Chapter 2 of Part 2 were furnished.

(§ 5405(c).)

Based on a medical report by Arnaldo Aleman, D.C., and payment to the doctor per printout of benefits, CIGA established that they provided applicant medical treatment benefits on June 29, 2015 for at least one claimed overlapping body parts in the specific claim and cumulative trauma claim. The Application for cumulative trauma was filed on April 25, 2016, which is less than one year after the last provision of medical benefits as per the existing record. At this juncture, without a section 5412 date of injury or injuries, it is premature to determine whether the statute of limitations bars applicant's claim, or whether same is tolled.

Upon return to the trial level, the WCJ should develop the record to determine not only the date of injury or dates of injuries sustained by applicant, but the periods of exposure as to each named defendant, the type of work which applicant was performing for each employer, as well as to what extent the injury or injuries are related, which may resolve the peripheral issues raised and not yet at trial, including the issue of change of administrator and reimbursement to CIGA.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the November 26, 2025 F&O issued by the WCJ is **DISMISSED**.

IT IS FURTHER ORDERED that defendant CIGA's Petition for Reconsideration of the F&O issued by the WCJ on November 26, 2025, is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of the WCJ on November 26, 2025 is **RESCINDED** and that the matter is **RETURNED** to the WCJ for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

FEBRUARY 19, 2026

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

**ANTHONY ALVAREZ
HERNANDEZ INJURY LAWYERS
BENTHALE, MCKIBBIN, MCKNIGHT & BITZ
RUSSELL LEGAL GROUP
LAW OFFICE OF CHRISTY L. DUNCAN**

SL/abs

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