WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

BRADEN NANEZ, *Applicant*

vs.

3 STONEDEGGS, INC.;
TECHNOLOGY INSURANCE COMPANY, Adjusted by AMTRUST NORTH AMERICA, *Defendants*

Adjudication Number: ADJ14015513
Redding District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant seeks reconsideration of the Findings of Fact, Award and Opinion on Decision (F&A) issued on January 7, 2026, wherein the workers' compensation administrative law judge (WCJ) found that (1) while employed on October 5, 2020, applicant sustained injury arising out of and in the course of employment to the femur, bruised lung, and in the form of a traumatic brain injury; (2) the employer has furnished some medical treatment, and the primary treating physician is Dr. Timothy Lo; (3) there has not been a timely Utilization Review (UR) denial of the August 20, 2025 Request For Authorization (RFA) from Dr. Lo for 24 hours per day, 7 days per week of home attendant care; and (4) the requested treatment in the form of home attendant care is reasonable and necessary to cure or relieve applicant from the effects of industrial injury.

The WCJ issued an award in applicant's favor and against defendant of future medical treatment in the form of home attendant care for 24 hours per day, 7 days a week, and continuing.

Defendant contends that it issued a valid notice that applicant's RFA was incomplete under AD Rule 9792.6.1(t)(2), nullifying its obligation to complete UR until applicant's physician submitted a complete RFA. In the alternative, defendant contends that (1) the evidence does not show that applicant reasonably requires home attendant care of 24 hours per day, 7 days per week; (2) the award of home attendant care on an ongoing basis precludes future UR of applicant's care in a manner contrary to the reasoning of *Illinois Midwest Ins. Agency LLC v. Workers' Comp. Appeals Bd*. (*Rodriguez*) 115 Cal.App.5th 1168 [90 Cal.Comp.Cases 1127];[1] and (3) the award of

[1] We note that on January 21, 2026, the Supreme Court granted review of *Rodriguez,* and, therefore, it has no binding or precedential effect and may be cited only for potentially persuasive value. (Cal. Rules of Court 8.1115(e).)

home attendant care violates the right to due process because defendant was effectively denied an opportunity to question Dr. Lo.

We received an Answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have reviewed the Petition for Reconsideration, the Answer, and the contents of the Report. Based upon our review of the record, and as discussed below, we will deny the Petition for Reconsideration.

FACTUAL BACKGROUND

On November 18, 2025, the matter proceeded to trial with the following issues in dispute:

> 1. Need for further medical treatment in the form of in-home 24/7 attendant care.
> 2. Was the UR delay issued timely pursuant to the Labor Code, and was this a valid UR response, specifically whether the utilization review response was properly signed by a doctor or not.

(Minutes of Hearing (Reporter), November 18, 2025, p. 2:9-12.)

The WCJ admitted into evidence several medical reports, including the RFA of Dr. Lo dated August 20, 2025, the letter delaying review from defendant dated August 25, 2025, as well as the Life Care Plan of Tracy Albee, R.N.. The Life Care Plan includes the following:

> Braden's 24hr care includes, but is not limited to:
> • Obtaining all of Braden's personal items, groceries, and prescriptions.
> • Preparing all meals or cuing him to make a sandwich or use the microwave.
> • Reminding Braden to eat and drink.
> • Managing ongoing texts and phone calls throughout the entire day and night.
> • Managing all medical and non-medical appointments.
> • Providing almost 100% of the transportation or reminding Braden how to access hired rides.
> • Managing finances.
> • Reminding Braden to take care of his dog.
> • Managing all of the needed documentation that Braden would otherwise be required to do. For example, every time he sees an MD, paperwork has to be filled out. They have to file his taxes.
> • Providing medication control.
> • Reminding him to do household chores [of which he does not do many].
> • Providing constant reminders all day long for Braden to complete his activities of daily living, such as showering, putting on clean clothes and doing dental hygiene.
> • Taking him for haircuts.

• Constantly coaching to encourage Braden to get out of bed and do some level of activity, even if at home.
• Constantly talking Braden down from anxiety attacks or agitation.
• Fielding the complaints of others against Braden, including threats to call the police on him.
• Constantly addressing tantrums and trying to avoid his becoming verbally aggressive.
• Constantly trying to find ways to encourage independent living. Setting up whiteboards, phone alarms, sticky note reminders, etc. However, without someone always present to help him use the systems, these ideas all fail.
• Constantly organizing Braden's personal belongings. For example, he will shop and then just leave everything in bags on the table. Or he will take things out of a closet for some reason and then not know how to put it all back. He requires assistance to find places to put both new and old items within the household.
. . .
Option 1: 24-hour per day/ 7 days per week supportive custodial care at Brenda's home

If this option is chosen, I recommend that the family use agency-hired attendant care with either two 12-hour shifts or three 8-hour shifts on a daily basis. The attendants used to staff Braden's care will have to be experienced and well-versed in caring for individuals with a brain injury.
. . .
Butte Home Health Plus, in Chico, charges $34.00 per hour, and overtime rates after 8 hours for longer shifts . . .

BrightStar Care, in Chico, charges $36.00 per hour for full-time caregivers, and overtime after 9 hours if staffed as 12-hour shifts . . .
. . . .
Home Instead, a third agency in Chico, charges $36.50 to $38.50 per hour for days. Nighttime rates range from $32.50 to $38.50 per hour, depending on the overnight needs of the client.

(Ex. 7, Life Care Plan of Tracy Albee, R.N., pp. 12-13.)

In the Report, the WCJ states:

The applicant suffered a now accepted injury at work on 10/5/2020 to the femur, bruised lung and traumatic brain injury when he was involved in an auto accident. The question of injury AOE/COE was initially contested, but ultimately it was determined that the injury was work related and the defendant picked up benefits, including medical care.

At an expedited hearing on 4/8/2025, the defendant agreed to authorize Dr. Timothy Lo as the primary treating physician. Because of the severity of the brain injury, a Life Care Plan from RN Tracy Albee was obtained, in evidence as Applicant's Exhibit 7 . . . This report is dated 11/25/2024.

The parties utilized the services of Dr. Claude Munday as an agreed medical examiner. Dr. Munday's report of 9/26/24 is in evidence as Defendant's Exhibit B, and his deposition transcript is in evidence as Applicant's Exhibit 5.

On 8/20/2025, the treating physician, Dr. Lo, filed an RFA requesting authorization for home attendant care for the applicant at a frequency of 24 hours a day, 7 days a week (Applicant's Exhibit 3). In his report of 8/12/2025, Dr. Lo stated, "*With this supplemental report, I will make formal request/RFA for 24/7 attendant care, as also recommended by Certified Life Care Planner Tracy Albee, R.N., in her report dated November 25, 2024*" (Applicant's Exhibit 2). A condensed version of this report, also dated 8/12/25, was attached to the 8/20/25 RFA.

Defendant received this RFA, but in their unsigned letter of 8/25/15, some un-named person made the medical determination that this request was incomplete (Joint Exhibit AA). This unsigned letter stated that "The recommended course of treatment has not been identified with specificity (Ex: frequency, duration, quantity, Dosage)."

Instead of approving, denying or delaying via UR, **this RFA was never sent to UR at all**. As legal authority to do this, the petitioner cited a non-existent regulation, 9792.9.1(t)(2). There is no evidence that Dr. Lo responded to this letter.

The parties then disputed whether this was a legitimate response to the RFA, as well as whether it was a timely response. If untimely, the applicant argues that the judge had jurisdiction to determine the reasonableness of the requested treatment. A trial on this dispute occurred on 11/18/25, and a Findings of Fact, Award, and Opinion on Decision issued on 1/7/26.

. . .

The petitioner asserts that their notice of incomplete request for authorization was timely. For the first time, petitioner identified CCR 9792.6.1(t)(2) as the authority for issuing this notice and not sending the RFA to UR.

. . .

All these requirements [of CCR 9792.6.1(t)(2)] are met by the 8/20/25 RFA, Applicant's Exhibit 3. That RFA did identify the treater, employee and the recommended treatment. It was accompanied by the medical documentation supporting the medical necessity for the requested treatment and it was signed by the requesting doctor.

If petitioner had a disagreement about what the recommended treatment should be, the correct action to take would have been to send it to UR, where a medical professional could take a look and respond.

. . .

In this case, the RFA in question identified the employee and the provider, identified the recommended treatment (home attendant care, 24 hours a day, 7 days a week), did have documentation substantiating the medical necessity (the attached

8/12/25 supplemental report of Dr. Lo, referencing his review of the depo transcript of AME Munday and the Life Care Plan), and was signed by the requesting physician. Thus, the conditions that would allow petitioner to refuse to send the RFA to UR via the opinion of a non-medical reviewer as established by the regulation they now cite as authority are not met.

. . .

[T]he opinions of the AME and the Life Care Plan referenced in the doctor's attached medical report of 8/12/25 establish that at least for now, the duration is continuing until no longer needed.

. . .

Further, Dr. Lo, the PTP, in Applicant's Exhibit 3, noted that in making the recommendation for home attendant care, he had reviewed both the transcript of the deposition of Dr. Munday (Applicant's Exhibit 5) and the life care plan developed by Tracy Albee (Applicant's Exhibit 7). The life care plan establishes the detail petitioner contends is needed to define the parameters of the treatment needed by the applicant, and that plan is cited by Dr. Lo as a basis for his request for treatment in the 8/12/25 supplemental report attached to the RFA and in a more detailed report of the same date (Applicant's Exhibit 2). Therefore, the petitioner is in fact well aware of exactly what Dr. Lo says applicant needs medically for his home attendant care, as defined by the medical evidence cited by the treater in the RFA as the basis of his request.

In summary, the response by petition[er] in the form of their 8/25/25 Notice (Joint Exhibit AA) is invalid both because it is unsigned, and because it cites no valid legal authority in support.

. . .

In addition, the medical record attached to the RFA in question by Dr. Lo does in fact reference as a basis for his request, other medical records which do provide in detail the scope and extent of the home care needed. Whoever it was at petitioner's office that authored Joint Exhibit AA needed to be willfully ignorant of the medical record to complain about a lack of specificity in the RFA. Summary rejection of the RFA without UR, by some un-named person or entity without medical expertise, citing non-existent legal authority, and opining upon a medical issue they are not qualified to address, is not timely UR review. No UR review is untimely review.

Next, the question becomes whether the requested treatment is reasonable. An untimely UR review, or no UR review at all, establishes jurisdiction in the board to make this determination.

The AME, Dr. Munday, told the parties that the applicant had a severe cognitive impairment, particularly with respect to memory (Applicant's Exhibit 5, page 15:15-25; 6:1). The AME further agreed that the applicant was permanently mentally incapacitated and required supervision for most activities of daily living (Exhibit 5, page 14: 1-12). At that point in time, four and a half years post injury,

the AME did not feel that any significant improvement in the applicant's mental condition could reasonably be expected (Exhibit 5, page 20: 5-11).

While the AME was asked to and did discuss the details of what treatment the applicant might need in the future, the actual determination and definition of that need properly comes from the treating physician, in this case Dr. Lo. In addition to the PTP's reports, the parties also obtained a life care plan, which is in evidence as Applicant's Exhibit 7. In that document, the planner summarized the level of care required by the applicant due to his industrial injury, beginning on page 11 and continuing onto page 13. There was no determination that these needs would be anything but permanent, consistent with the idea of a "life" care plan and Dr. Munday's determination that the applicant's condition was almost certainly permanent.

The primary treating physician, Dr. Lo, wrote two reports, in evidence as Applicant's Exhibits 2 and 3. In Dr. Lo's report dated 8/12/25, Exhibit 2, he notes that after review of Dr. Munday's deposition transcript, and the Life Care Plan, the applicant would need 24/7 care as defined by the Life Care Plan. Immediately thereafter, Dr. Lo issued the RFA in question here, requesting 24/7 home attendant care.

Therefore, there is unanimity of opinion among the treaters and evaluators that the applicant would need this home attendant care as defined by the Life Care Plan, and that this need would be unlikely to change in any significant was in the future. There is no contrary medical opinion.

Petitioner contests the substantiality of these reports. For Dr. Munday, petitioner picks a statement out of the doctor's 9/26/24 report, wherein Dr. Munday opines on the potential use of a case manager, the use of a community program, or a rehabilitation plan that might be of use "eventually." Petitioner then speculates on whether this description is more like occasional attendant care or company or home medical care. Petitioner then complains that their speculation about what the doctor means requires them to assume what is being requested in the RFA. However, Dr. Lo's RFA references the very extensive description of the applicant's needs in the Life Care Plan, as well as Dr. Munday's later discussion on this subject in his deposition, so no speculation or assumptions are needed.

Next, petitioner alleges that Dr. Lo's opinions are not substantial because he did not see Dr. Munday's report of 9/26/2024. However, petitioner ignores the fact that Dr. Lo did see Dr. Munday's later (6/23/25) discussions on this subject in his deposition transcript. Further, petitioner does not reference anything relevant to the dispute that Dr. Lo did not see from Dr. Munday's 2024 report, simply that he didn't see it. Without stating a reason why the lack of one report from the evaluator, who legally doesn't get to define the type and scope of needed treatment anyway, as that is the job of the treater, the petitioner's argument against the substantiality of Dr. Lo's opinions are invalid.

In summary, the medical evidence is unanimous in support of the need for 24/7 home attendant care. The evaluator and the treater both discussed their reasoning for their opinions on this subject and cited the parts of the record relevant to those determinations. For these reasons, this judge found these opinions to be substantial evidence on that subject.

Finally, petitioner alleges that an award of medical treatment that is continuing deprives petitioner of the right to conduct utilization review in the future. Petitioner cites no legal authority for that proposition, and in fact the petitioner retains the right to UR anytime there is a substantial change in the applicant's condition that might justify such a review.

Petitioner also for the first time alleges that proceeding to trial on these issues was a denial of their due process. Petitioner did not make this argument at trial, and brings this issue up for the first time in their petition for reconsideration.

Petitioner did object to the DOR on the specious reason that that document did not mention the date of the RFA, or the name of the physician submitting the RFA. This ignores the fact that the DOR noted that the RFA in question was from the primary treating physician, who the petitioner had specifically authorized to provide treatment in the minutes of the 4/8/25 hearing. Therefore, petitioner was not left in the dark as to who the DOR was talking about. Further, the petitioner's adjusting agency received the RFA in question and responded, as is shown by Joint Exhibit AA. Petitioner not only knew what RFA the DOR was referencing, the petitioner made a flawed response to that same RFA. Further, petitioner failed to object at trial to that proceeding going forward, did not at that time make the question of due process an issue to be determined, nor did petitioner request that discovery be kept open for further testimony if that is in fact what they really thought they needed. The only action the petitioner took at trial was to place a bland statement on the record that they would have called a witness if they had the time. This statement was not an objection to proceeding, a plea to keep the record open for this testimony, nor a request to add the question of due process as an issue. Therefore, their complaints of lack of due process have no merit.

(Report, pp. 2-6.)

DISCUSSION

I.

Former Labor Code section 5909[2] 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. (§ 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part:

[2] Unless otherwise stated, all further statutory references are to the Labor Code.

> (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 February 11, 2026, and 60 days from the date of transmission is April 12, 2026. The next business day that is 60 days from the date of transmission is April 13, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[3] This decision is issued by or on April 13, 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 by the workers' compensation administrative law judge, the Report was served on February 11, 2026, and the case was transmitted to the Appeals Board on February 11, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties

[3] 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.

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 February 11, 2026.

II.

Under California's workers' compensation system, the employer of an industrially injured employee is responsible for all medical treatment reasonably necessary to cure or relieve the injured employee from the effects of his or her injury. (§ 4600.) Employers' responses to requests for medical treatment submitted by the physicians of their injured employees are governed by UR, the legislative purpose of which is to "ensure quality, standardized medical care for workers in a prompt and expeditious manner" . . . so that "a physician rather than a claims adjustor with no medical training, makes the decision to deny, delay or modify treatment." (§ 4610; *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd*. (*Sandhagen*) (2008) 44 Cal.4th 230, 241 [73 Cal.Comp.Cases 981].)

UR does not abrogate an employer's duties to provide reasonable medical treatment to cure or relieve from the effects of the industrial injury and to investigate whether and to what extent treatment is due. (Cal. Code Regs., tit. 8, § 10109; § 4600(a); see *Braewood Convalescent Hospital v. Workers' Comp. Appeals Bd*. (1983) 34 Cal.3d 159, 165 [48 Cal.Comp.Cases 566])

"[W]here the injured worker can demonstrate that the disputed utilization review determination suffers from . . . material procedural defects that undermine the integrity of the utilization review decision . . . 'the issue of medical necessity is not subject to IMR but is to be determined by the Workers' Compensation Appeals Board based upon substantial evidence, with the employee having the burden of proving the treatment is reasonably required.'" (*Dubon v. World Restoration, Inc.* (2014) 79 Cal.Comp.Cases 313 (*Dubon I*).)

We turn first to defendant's contention that it issued a valid notice that applicant's RFA was incomplete under AD Rule 9792.6.1(t)(2), nullifying its obligation to complete UR until applicant's treating physician submitted a complete RFA.

Preliminarily, we note that defendant's response to the RFA failed to assert an objection under AD Rule 9792.6.1(t)(2), and defendant did not raise the issue of whether the response was valid under AD Rule 9792.6.1(t)(2) for trial. (Report, pp. 2-3.) The sole issue concerning the validity of defendant's response at trial in the record before us is whether it was timely and signed by a doctor. (Minutes of Hearing (Reporter), November 18, 2025, p. 2:9-12.) Given that the issue

of the validity of the response under AD Rule 9792.6.1(t)(2) was not raised, it was waived. (*Id*.; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd.* (1978) 82 Cal.App.3d 39 [43 Cal.Comp.Cases 661]; *U.S. Auto Stores v. Workmen's Comp. Appeals Bd.* (*Brenner*) (1971) 4 Cal.3d 469 [36 Cal.Comp.Cases 173]; *Cuevas v. Workers' Comp. Appeals Bd.* (2005) 70 Cal.Comp.Cases 479 (writ den.); § 5904.)

Accordingly, we reject the contention that defendant's response to the RFA was valid under AD Rule 9792.6.1(t)(2).

Nevertheless, we address its merits.

AD Rule 9792.6.1(t) provides:

> "Request for authorization" means a written request for a specific course of proposed medical treatment.
>
> (1) Unless accepted by a claims administrator under section 9792.9.1(c)(2), a request for authorization must be set forth on a "Request for Authorization (DWC Form RFA)," completed by a treating physician, as contained in California Code of Regulations, title 8, section 9785.5. Prior to March 1, 2014, any version of the DWC Form RFA adopted by the Administrative Director under section 9785.5 may be used by the treating physician to request medical treatment.
>
> (2) "**Completed**," for the purpose of this section and for purposes of investigations and penalties, **means** that **the request for authorization must identify both the employee and the provider, identify with specificity a recommended treatment or treatments, and be accompanied by documentation substantiating the need for the requested treatment.**
>
> (3) The request for authorization must be signed by the treating physician and may be mailed, faxed or e-mailed to, if designated, the address, fax number, or e-mail address designated by the claims administrator for this purpose. By agreement of the parties, the treating physician may submit the request for authorization with an electronic signature.
>
> (Cal. Code Regs., tit. 8, § 9792.6.1(t) [emphasis added].)[4]

In *Ives v. DR Myers Distrib. Co*., 83 Cal.Comp.Cases 1484, an Appeals Board panel held that under AD Rule 9792.6.1(t), the defendant was required to submit a RFA from the applicant's physician to UR where the RFA sought a neurology consult and eight sessions of "chiropractic care with Dr. Chung" and was accompanied by supporting documentation, including a report by

[4] While AD Rule 9792.6.1(t) was in effect at the time of the hearing, effective April 1, 2026, it has been superseded by AD Rule 9792.6.1(u) with a few minor changes. (Cal. Code Regs., tit. 8, § 9792.6.1.)

the physician explaining that Dr. Chung was a chiropractor of neurology and that the request for eight sessions of chiropractic care was with him. The panel found that the claims adjuster improperly failed to submit the RFA to UR, and unilaterally modified the request by authorizing treatment from a "chiropractor" rather than a "chiropractic neurologist," without considering the physician's report detailing the treatment request. The panel reasoned that claims adjusters must read the RFA and the physician's report together in their entirety before making a decision and may not simply skim the first page of a RFA and choose portions of required documentation.

In this case, the Petition for Reconsideration avers that the RFA was not complete because there was "no indication of duration or length of time to which the 24/7 attendant care would be required . . . [and] attendant care could encompass a wide range of services (just companion care, meals, bathing assistance, laundry, cooking, etc.) but the doctor did not specify the actual services requested." (Petition, p. 3:13-20.)

Yet defendant was required to read the RFA and accompanying reports in their entirety; and, when read together, these identify the injured employee, describe the recommended treatment, substantiate the need for the treatment, and identify providers of the treatment, including Butte Home Health Plus, BrightStar Care, Home Instead, and Instead HealthCare. (Report, pp. 3-4; Ex. 7, Life Care Plan of Tracy Albee, R.N., pp. 12-13.) It follows that defendant was without grounds to assert that the RFA was incomplete under AD Rule 9792.6.1(t)(2).

Accordingly, we conclude that defendant's contention that it issued a valid notice that applicant's RFA was incomplete under AD Rule 9792.6.1(t)(2), nullifying its obligation to complete UR until applicant's physician submitted a complete RFA, would have failed on the merits.

Notably, defendant's unsigned response to the RFA stating that it did not identify the recommended treatment with specificity effectively denied the treatment requested by stopping UR in its tracks. (Report, pp. 2-3.) This response from a person whom we can only assume was a claims administrator flouts the Legislature's intent in creating UR that medical treatment decisions be made expeditiously by physicians. (*Sandhagen*, *supra.*) It thus constitutes a material defect of UR, rendering the issue of medical necessity subject to determination by the WCAB. (*Dubon I, supra*; see also *Ives*, *supra*.) It follows that the WCJ's exercise of jurisdiction over medical necessity was proper.

We turn next to defendant's alternative contention that the evidence fails to show that applicant reasonably requires home attendant care of 24 hours per day, 7 days per week.

Under section 4600, an employer must provide "[m]edical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury." (§ 4600 (a).) It is well-settled that home health care is an appropriate benefit under section 4600, and that home health care services need not be provided by a nursing professional to be compensable. (*Henson v. Workers' Comp. Appeals Bd*. (1972) 27 Cal.App.3d 452 (awarding compensation to wife of injured worker who provided home healthcare to injured worker); *Smyers v. Workers' Comp. Appeals Bd*. (1984) 157 Cal. App. 3d 36, 42 (housekeeping services reimbursable where they are "necessary and reasonable in order to allow the injured worker to fully comply with the treatment prescribed by [the applicant's] physician"); *Hodgman v. Workers' Comp. Appeals Bd.* (2007) 155 Cal.App.4th 44 [72 Cal.Comp.Cases 1202] (mother of injured worker, who was also his conservator, could be reimbursed for monitoring and managing her son's health care needs); see also *Neri Hernandez v. Geneva Staffing, Inc. dba Workforce Outsourcing, Inc.* (2014) 79 Cal.Comp.Cases 682 (en banc).)

Whatever an employer does (or does not do), an injured employee must still prove that the treatment sought by a RFA is reasonable and necessary by a preponderance of scientific medical evidence. (*Sandhagen, supra*.)

Here, we agree with the WCJ that Dr. Lo's reporting constitutes substantial medical evidence that applicant reasonably requires home attendant care of 24 hours per day, 7 of days per week. (Report, pp. 4-5.)

Accordingly, we conclude that the record establishes that applicant reasonably requires such care.

We next address defendant's alternative contention that the award of ongoing home attendant care precludes future UR of applicant's care in a manner contrary to the reasoning of *Rodriguez*.

In *Rodriguez*, the Court of Appeals held that the WCAB lacked jurisdiction to review a UR denial of ongoing home health care services because the exclusive remedy for any erroneous medical necessity determination in UR is Independent Medical Review (IMR).

In this case, however, we have explained that the issue of medical necessity was not submitted to UR, entitling applicant to seek a remedy from the WCAB. (See *Sandhagen*, *supra*; *Dubon I, supra.*) Hence we are unable to discern grounds to suggest that the award of ongoing home attendant care is contrary to the reasoning of *Rodriguez*.

Furthermore, the award of ongoing care does not foreclose defendant from submitting the issue of medical necessity to UR in the future should medical evidence suggest that a change of applicant's circumstances or condition may show that the treatment is no longer reasonably required to cure or relieve him of the effects of injury. (See *Patterson v. The Oaks Farm* (2014) 79 Cal.Comp.Cases 910 [Appeals Board Significant Panel Decision].)

Accordingly, we are unable to discern merit to defendant's alternative contention that the award of home attendant care of 24 hours a day, 7 days a week on an ongoing basis deprives it from participating in UR in the future.

Lastly, we address defendant's alternative contention that the award of home attendant care violates the right to due process because defendant was effectively denied an opportunity to question applicant's treating physician.

Here, as stated by the WCJ in the Report, defendant did not raise this issue before filing the Petition for Reconsideration, and, therefore, it is waived. (Report, p. 5; § 5904.)

We also agree with the WCJ that the record does not suggest that defendant was denied notice or opportunity to be heard. (Report, pp. 5-6.)

Accordingly, we discern no merit to defendant's alternative contention that the award of home attendant care violates the right to due process.

Accordingly, we will deny the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Findings of Fact, Award and Opinion on Decision issued on January 7, 2026 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 13, 2026

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

BRADEN NANEZ
LAW OFFICE OF LARRY BUCKLEY
HANNA, BROPHY, MACLEAN, MCALEER & JENSEN

SRO/*pm*

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