

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

**GENNADIY MARMUYENKO, *Applicant***

**vs.**

**COUNTY OF SACRAMENTO, permissibly self-insured, *Defendants***

**Adjudication Number: ADJ11422165  
Sacramento District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We previously granted reconsideration<sup>1</sup> in this matter to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration. Having completed our review, we now issue our Decision After Reconsideration.

Applicant seeks reconsideration of the December 28, 2021 Amended Findings and Award (F&A), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a Code Enforcement Officer from 2013 to February 8, 2018, sustained industrial injury to his neck. The WCJ found that applicant's occupational group number was 251, and that applicant was not in need of further medical treatment.

Applicant contends his right to potential future medical treatment should remain open, and that his occupational group number should be 390.

We have received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we

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<sup>1</sup> Commissioners Lowe and Sweeney, who were previously members of this panel, no longer serve on the Workers' Compensation Appeals Board. Other panelists have been substituted in their place.

will affirm the F&A, except that we will amend Finding of Fact No. 8 to reflect that there may be need for future medical treatment to cure or relieve from the effects of the industrial injury.

## FACTS

Applicant claimed injury to his neck and back while employed as a Code Enforcement Officer by defendant County of Sacramento from 2013 to February 8, 2018. Defendant denies injury arising out of and in the course of employment.

The parties selected William Ramsey, M.D., to act as the orthopedic Qualified Medical Evaluator (QME). Applicant has also received treatment from Ramandeep Gurai, M.D., and Vinay Reddy, M.D., at the Spine & Nerve Diagnostic Center.

On October 20, 2021, the parties proceeded to trial, framing issues including whether applicant sustained injury arising out of and in the course of employment, permanent disability, apportionment, occupational group number, the need for further medical treatment, and attorney's fees. (Minutes of Hearing and Summary of Evidence (Minutes), dated October 20, 2021, at p. 2:14.) The WCJ heard testimony from applicant and from applicant's supervisor Mr. Chamberlain and ordered the matter submitted for decision.

On December 28, 2021, the WCJ issued her F&A, determining in relevant part that applicant's occupational group number is 251, and that applicant is not in need of further medical treatment. (Findings of Fact Nos. 3 & 8.)

Applicant's Petition avers the medical record does not foreclose on any possible future right to medical treatment, and that his use of body armor is better reflected in occupational group 390.

Defendant's Answer observes that applicant's right to future care has been addressed by QME Dr. Ramsey on two occasions, without change in opinion. (Answer, at p. 2:11.) Insofar as applicant wore a Kevlar vest, defense witness Mr. Chamberlain testified that the use of a safety vest did not alter applicant's job duties. (*Id.* at p. 3:2.)

The WCJ's Report observes that both applicant's initial treating physician Dr. Armstrong, and QME Dr. Ramsey have both opined that applicant is not in need of further medical treatment. (Report, at p. 3.) The WCJ also notes that while applicant may have worn body armor, he did not occupy a sworn position or have arresting power but instead had the option to call law enforcement if he felt unsafe. (*Ibid.*) Accordingly, the WCJ recommends we deny applicant's Petition.

## DISCUSSION

The WCJ has determined that applicant sustained industrial injury to the neck (Finding of Fact No. 1), but nonetheless is “not in need of further medical treatment.” (Finding of Fact No. 8.) Applicant argues that insofar as the Finding of Fact arises out of the opinions of QME Dr. Ramsey, the QME “did not specifically indicate that the medical treatment ... ‘cured’ the ... neck injury, nor that because of said treatment Mr. Marmuyenko was completely free or forever ‘relieved’ from the effects of his neck injury.” (Petition, at p. 2:21.) Applicant thus contends that his right to seek medical treatment to cure or relieve from the effects of the industrial injury should not be extinguished.

In his initial comprehensive medical-legal report, QME Dr. Ramsey reviewed applicant’s medical history, undertook a physical examination, and concluded that applicant had sustained injury in the form of “chronic myofascial strain about the neck and low back areas, superimposed on minor degenerative changes in the mid-cervical and diffuse lumbar areas.” (Ex. X, report of William Ramsey, M.D., dated June 6, 2019, at p. 6.) With respect to applicant’s need for “further treatment,” Dr. Ramsey opined:

There is no indication for any further medical intervention. I see no need for gabapentin as there is no indication of any neurologic involvement. I see no need for Voltaren cream, which may be of limited benefit for peripheral joint pains, but no evidence that applicant needs it any longer. I am doubtful this would be of any help in the management of his neck and back. I do encourage continued exercise indefinitely, presumably as taught by physical therapy.

(*Id.* at p. 7.)

In a supplemental report of July 29, 2019, Dr. Ramsey noted that applicant was undergoing a series of low back and neck injections, which were noted to provide partial relief, but that the QME would nonetheless “be reluctant to consider any additional procedures unless the relief was substantially complete,” because he was “skeptical that the above-described interventions, including those pending, are going to make any lasting difference for this individual.” (Ex. Y, Report of William Ramsey, M.D., dated July 29, 2019, at p. 4.)

The issue of future medical care was again raised in the October 9, 2020 deposition of Dr. Ramsey, who testified as follows:

Q. All right. And you didn’t find any need for future care to the neck; correct?

A. I didn't see anything no. I think simple, conservative measures, a little medication for a while, and maybe construction and exercise in posture, and he should be over the hump for treatment.

(Ex. AA, Transcript of Deposition of William Ramsey, M.D., dated October 9, 2020, at p. 6:7.)

We note in the first instance that the QME's indication that applicant may require physical therapy and medication, standing alone, is a sufficient basis for the provision of future medical treatment. (See, e.g., *Argonaut Insurance Co. v. Workers' Comp. Appeals Bd. (Garcia)* (1996) 61 Cal.Comp.Cases 378 (writ den.); *County of Los Angeles v. Workers' Comp. Appeals Bd. (Garcia)* (1995) 60 Cal.Comp.Cases 617 (writ den.)) We further observe that the medical necessity of any such request for future medical treatment would be subject to the utilization review and independent medical review processes described in Labor Code<sup>2</sup> sections 4610 and 4610.5.

In a larger context, however, we are mindful that pursuant to section 4600(a), the employer is required to provide medical treatment "reasonably required to cure or relieve the injured work from the effects of the worker's injuries." (Lab. Code, § 4600(a).) This requirement to provide medical treatment for a workplace injury continues throughout the entire life of the employee unless the parties specifically resolve the issue of medical treatment. (*United States Fidelity & Guaranty Co. v. Dept. of Ind. Relations* (1929) 207 Cal. 144; *Ferguson v. Workers' Comp. Appeals Bd.* (1995) 33 Cal.App.4th 1613, fn. 12; Lab. Code, § 3209.5 [medical treatment]; Lab. Code, §§ 5000, 5001, 5702 [settlement by way of a compromise and release or stipulation].) As a result, an employer may still be providing medical treatment to an industrially injured worker long after they have left employment.

Thus, while any future request for medical treatment pursuant to section 4600(a) would be subject to evaluation for medical necessity through the utilization review process, the underlying determination of entitlement to seek that future medical treatment must contemplate whether the need for treatment may arise over the course of the injured worker's lifetime. We further observe that per Administrative Director Rule 35.5, subd. (g)(2), the QME "shall not provide an opinion on any disputed medical treatment issue, but shall provide an opinion about whether the injured worker will need future medical care to cure or relieve the effects of an industrial injury." (Cal. Code Regs., tit. 8, § 35.5(g)(2).)

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<sup>2</sup> All further references are to the Labor Code unless otherwise noted.

Here, the QME's analysis has focused largely on the question of the efficacy of applicant's current treatment regimen, rather than substantively evaluating whether applicant's industrial injuries may require medical treatment in the future. It is not clear from the current record that the QME fully appreciated the scope of the potential entitlement to future medical treatment afforded under section 4600(a). However, to the extent that the QME has endorsed the potential need for both medications and instruction from a qualified physical therapist, we conclude that applicant's right to possible future medical treatment under section 4600(a) should not be foreclosed. Accordingly, we will amend Finding of Fact No. 8 to reflect that applicant may require future medical treatment to cure or relieve from the effects of his industrial condition. We again observe that any dispute regarding the medical necessity of a requested treatment modality will be subject to the prescribed utilization review and the independent medical review processes. (Lab. Code, §§ 4610; 4610.5; 4610.6.)

Applicant further challenges the WCJ's determination of the occupational group number, contending that because he used a Kevlar safety vest, "[t]he fact that there were safety risks and concerns that would require the wearing of body armor as an essential part of Mr. Marmuyenko's employment supports the Applicant's contention that Occupation Group 390 is accurate in this case and the injured worker should be given that classification." (Petition, at p. 3:5.) However, we concur with the WCJ's observation that applicant was not required to perform the duties traditionally associated with safety officers but could always retreat or leave if he felt unsafe and could call law enforcement as needed. (Report, at p. 3.) We agree with the WCJ's conclusion that applicant's job duties were appropriately classified as falling within Group 251. We therefore decline to disturb the WCJ's findings in this regard.

For the foregoing reasons,

**IT IS ORDERED**, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the December 28, 2021 Amended Findings of Fact and Award is **AFFIRMED** except that it is **AMENDED** as follows:

**FINDINGS OF FACT**

\* \* \*

8. Applicant may require future medical treatment to cure or relieve from the effects of his industrial injury.

\* \* \*

**AWARD**

\* \* \*

- b. Future medical treatment as per Finding of Fact No. 8, above.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER**

**I CONCUR,**

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

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



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

**February 24, 2026**

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

**GENNADIY MARMUYENKO  
EASON & TAMBORNINI  
HANNA, BROPHY, MACLEAN, MCALEER & JENSEN**

**SAR/abs**

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