

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

IVANA IVETTE HERNANDEZ ARIAS, *Applicant*

vs.

**KIMCO STAFFING SERVICES, INC.,
administered by SEDGWICK, *Defendants***

**Adjudication Number: ADJ15792171
San Bernardino District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Lien claimant Medland Medical (lien claimant) seeks reconsideration of the Amended Findings of Fact (Amended Findings), issued by the workers' compensation administrative law judge (WCJ) on October 7, 2025, wherein the WCJ found, in pertinent part, that applicant, while employed during the period of May 26, 2021, through January 4, 2022, as a laborer, by defendant, sustained injury arising out of and occurring in the course of employment (AOE/COE) to her right and left elbow in the form of mild epicondylitis, but that lien claimant failed to meet their burden of proof and establish injury AOE/COE to the bilateral wrists, bilateral hands, bilateral fingers, stress, and psyche.

Lien claimant contends that the WCJ erroneously denied reimbursement for both treatment and medical-legal services properly rendered, and further, that they are entitled to reimbursement for treatment provided during the 90-delay period defined under Labor Code section¹ 5402(c), because defendant failed to establish medical control and provide medical care. Lien claimant contends that the reasonable value of the comprehensive medical evaluation should be considered payable since the medical-legal report of Omid Haghighinia, D.C., was reasonably and necessarily incurred at the time it was issued, and it should be entitled to penalties and interest for delayed payment, based upon the findings of Chiropractor Haghighinia and the panel Qualified Medical Evaluator (QME) G. Sunny Uppal, M.D.

¹ All further references are to the Labor Code, unless otherwise noted.

We received an Answer from defendant.

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

We have considered the allegations in the Petition for Reconsideration, the Answer, and the contents of the Report. Based on our review of the record, and for the reasons stated in the WCJ's Report, which we adopt and incorporate herein, we will deny reconsideration.

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, 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 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 November 7, 2025, and 60 days from the date of transmission is January 6, 2026. This decision is issued by or on January 6, 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 November 7, 2025, and the case was transmitted to the Appeals Board on November 7, 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 November 7, 2025.

For the foregoing reasons,

IT IS ORDERED that Lien claimant's Petition for Reconsideration of the Amended Findings and Order of October 7, 2025 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 6, 2026

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

**MEDLAND MEDICAL
MEDICAL COST REVIEW**

DLM/oo

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

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

INTRODUCTION

The lien claimant, Medland Medical, filed a timely, verified Petition for Reconsideration After Amended Findings and Order, on October 28, 2025.

STATEMENT OF FACTS

Initially, lien claimant's amended petition for reconsideration requires clarification. Contrary to lien claimant's assertion the undersigned did not issue a Findings, Award and Order on August 29, 2025, as alleged by lien claimant. Additionally, the undersigned did not "give a take nothing to the applicant" for self-procured treatment with Medland Medical group. (See Petition for Reconsideration After Amended Findings and Order p. 3, ll, 13 -15.) The undersigned issued a Findings of Fact addressing the issue of AOE/COE on August 29, 2025, and an amended Findings of Fact on October 7, 2025.

The applicant filed a claim for injury for the period May 26, 2021, through January 4, 2022. She claimed to have sustained injury arising out of and in the course of employment to her wrist, hand, fingers, stress, and psyche. The defendant delayed acceptance of the applicant's claim on March 18, 2022, and timely denied the applicant's claim on May 20, 2022. (See exhibits 1, 2.)

While the applicant's claim was delayed, she was referred to Dr. Haghighinia as her primary treating physician. Her attorney also requested a comprehensive medical legal report. (See exhibit 3.) Dr. Haghighinia, evaluated the applicant on June 20, 2022, after her claim had been denied by the defendant and issued a report of the same date. (See exhibit 4.) Subsequently, the parties obtained a panel qualified medical evaluator (PQME) pursuant to Labor Code section 4060. Dr. Uppal M.D. served as the PQME. Dr. Uppal issued two reports dated November 11, 2022, and August 14, 2023. The case proceeded to trial on the morning of August 4, 2025.

The sole issue to be determined at the August 4, 2025, trial was injury arising out of and in the course of employment. All other issues raised by the parties were bifurcated. (See MOH/SOE August 4, 2025, p.2, ll. 11-20.) The undersigned found the applicant sustained injury arising out of and in the course of employment to her right and left elbow in the form of mild lateral epicondylitis. Additionally, it was found the lien claimant failed to meet their burden of proof to establish injury arising out of and in the course of employment to her bilateral wrist, bilateral hands, bilateral fingers, stress, and psyche. It is from the Amended Findings of Fact that the Lien Claimant now seeks reconsideration.

LIEN CLAIMANT'S CONTENTIONS

- 1. Lien claimant is entitled to reimbursement for treatment provided during the delay period for the defendant's failure to establish medical control and provide medical care.**

On the morning of trial, the court reviewed the pretrial conference statement and all issues raised by the parties on page 3 of the pre-trial conference statement, dated June 30, 2025, and signed by Judge Petty, as well as the addendum with an additional 19 issues raised by Medland Medical. After a discussion with the parties, it was agreed the only issue for trial would be AOECOE for the following body parts: wrist, hand, fingers, stress, and psyche. All other issues were deferred. On Medland Medicals issue list, number 18, is whether defendant is liable for treatment prior to the denial of claim pursuant to Labor Code section 5402(c). That specific issue was deferred pending a finding of body parts injured AOE/COE. The lien claimant's assertion that the court issued a "take nothing to the applicant for self-procured medical services with Midland medical" is incorrect. (See Petition for Reconsideration After Amended Findings and Order p. 3, 11 13 -15). The undersigned did not make a Finding, or Order on lien claimant's entitlement to payment or reimbursement for medical treatment pursuant to Labor Code section 5402(c).

2. The reasonable value of the comprehensive medical evaluation should be considered payable, as the medical legal report of Dr. Omid Haghighinia, D.C. was reasonable and necessarily incurred at the time it was issued.

The lien claimant's second contention, the reasonable value of the comprehensive medical evaluation should be considered payable as the medical legal report of Dr. Omid Haghighinia was reasonable and necessary at the time it was issued, was deferred pending a finding of body parts injured AOE/COE. The undersigned did not make a Finding or Order on lien claimant's entitlement to payment or reimbursement for a medical legal report of Dr. Haghighinia.

3. Lien claimant should be entitled to reimbursement of all reasonable medical treatment after the denial of the claim based upon the findings of Dr. Omid Haghighinia, and the panel QME, Dr. Uppal, including penalties and interest for the delayed payment.

The lien claimant's contention they should be entitled to reimbursement of all reasonable medical treatment after the denial of claim, based upon the findings of Dr. Omid Haghighinia and the panel QME, Dr. Uppal, including penalties and interest for the delayed payment was deferred pending a finding of body parts injured AOE/COE. The undersigned did not make a Finding, or Order on lien claimant's entitlement to reimbursement of reasonable medical treatment.

4. The report of Dr. Haghighinia is supported by the panel QME: medical findings are consistent and support compensability of injury and treatment.

When the applicant was initially evaluated by Dr. Haghighinia, on June 20, 2022, she had complaints of

1. Constant right wrist pain that is 8/10 on a pain scale. The pain radiated to the hand. The pain is sharp, achy, and numb in nature.
2. Constant right hand pain that is 8/10 on a pain scale. The pain radiated to the fingers. The pain is sharp, achy, and tingling in nature.

Dr. Haghighinia's diagnoses were:

1. Right wrist tenosynovitis/pain, rule out carpal tunnel up right wrist and hand.
2. Right hand tendinitis involves the first MCP joints.
3. Post work-related stress, referred to the specialist, such as psychologist for evaluation and recommendations. Dr. Haghighinia failed to diagnosis right or left lateral epicondylitis. (See exhibit 4)

Dr. Uppal M.D. served as the PQME. Dr. Uppal issued two reports. In his initial report dated November 11, 2022, Dr. Uppal noted the applicant's complaints included bilateral wrist pain with numbness, weakness, and tingling that radiated to her hands and fingers. He also noted the applicant had complaints of bilateral hand and finger pain. Dr. Uppal found the applicant had no tenderness, swelling, or deformity in either hand. He also noted the applicant had full range of motions in all digits without any tenderness, swelling, or deformity. Finkelstein and Phalen's tests were negative bilaterally. The applicant also had full range of motion in the bilateral hands and wrists. Dr. Uppal's diagnosis / impressions were the applicant suffered from right and left lateral epicondylitis. He also noted he would like to rule out compressive neuropathy. He requested diagnostic testing, in the form of EMG and nerve conduction study be performed on both upper extremities. (See exhibit 6)

In his second report dated August 14, 2023, Dr. Uppal reviewed the results from the EMG and nerve construction study and noted the results were essentially normal. Dr. Uppal found the applicant had mild lateral epicondylitis bilaterally as a result of her employment with defendant. There was nothing in either of Dr. Uppal's reports to show a diagnosis of injury to the applicant's bilateral wrists, hands, or fingers. He found the applicant had impairment for the bilateral elbows in the form of mild lateral epicondylitis. Dr. Uppal did not provide impairment for the hands, wrist or fingers. Further, Dr. Uppal's provided future medical care for the bilateral elbows. He did not provide future treatment for the wrists, hands, or fingers. (See exhibit 5)

The undersigned found Dr. Uppal's opinion to be substantial medical evidence. Dr. Uppal reviewed the diagnostic studies, EMG and nerve construction study, in order to reach his conclusion, the applicant sustained mild lateral epicondylitis bilaterally and ruled out compression neuropathy. The undersigned did not find Dr. Haghighinia's report was substantial evidence as she had not reviewed diagnostic studies, nor did Dr. Haghighinia make a diagnosis which included the bilateral elbows.

Based on this medical record the undersigned found, the applicant sustained injury arising out of and in the course of employment to her right and left elbow in the form of mild lateral epicondylitis. The lien claimant failed to meet their burden of proof to establish injury arising out of and in the course of employment to the bilateral wrists, bilateral hands, bilateral fingers, stress, and psyche.

RECOMMENDATION

It is respectfully requested that the Petition for Reconsideration After Amended Findings and Order be denied.

**THE MATTER WAS TRANSMITTED TO THE RECONSIDERATION UNIT ON
November 7, 2025.**

Date: 11/07/2025

TRACY L. HUGHES
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE