WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

JESSIE RAFOLS, *Applicant*

vs.

GOLDEN YEARS ASSISTED LIVING, INC.;
ACCREDITED SURETY, *Defendants*

Adjudication Number: ADJ19682404
Riverside District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Lien claimant seeks reconsideration of the Findings and Order (F&O) issued by the workers' compensation administrative law judge (WCJ) on May 6, 2026, wherein lien claimant's lien was denied in its entirety. The WCJ found in pertinent part that lien claimant failed to meet its burden to show that applicant's claimed injury arose out of and in the course of his employment (AOE/COE) and thus failed to meet the threshold requirement for proving reasonableness and necessity of the medical treatment services provided; and failed to meet its burden of proof in regard to the issue of medical-legal charges asserted and there was no proof of service indicating that Exhibits 1 and 2 were served on defendant or any party prior to or at the lien conference.

Lien claimant contends in relevant part that the medical-legal evaluation performed by Omid Haghighinia, D.C., on October 3, 2024 was reasonably and necessarily incurred; and that the medical treatment provided was reasonable and necessary.

We received an Answer from defendant.

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

In response to the WCJ's Report, lien claimant filed a request to submit a supplemental petition along with the proposed petition. We accept and consider the supplemental pleading. (Cal. Code Regs., tit. 8, § 10964(b).)

We have considered the allegations in the Petition, the Answer, the supplemental petition, and the contents of the Report, and we have reviewed the record in this matter. Based upon our review of the record, and as discussed below, we will grant lien claimant's Petition for Reconsideration, rescind the F&O and return the matter to the WCJ for further proceedings consistent with this decision.

BACKGROUND

We will briefly review the relevant facts.

Applicant filed an Application for Adjudication of Claim (Application) on August 13, 2024, alleging a specific injury to his right arm and hand on June 16, 2024, while employed as a caregiver for defendant. On December 19, 2024, by way of a letter, applicant filed an Amendment to the Application to correct the date of injury to June 17, 2024.

On September 11, 2024, defendant issued a Notice of Denial of Claim for Workers' Compensation Benefits denying all liability for applicant's claim of injury. The denial stated:

> After careful consideration of all available information, we are denying liability for your claim of injury. Workers' Compensation benefits are being denied because you have failed to provide any medical, factual or legal evidence that you have a spider bite and that it occurred while at work. The date that you allege the incident took place your employer is indicating that you were not working.

(Joint Exhibit 1, 9/11/2024, p. 1.)

On October 2, 2024, applicant designated Dr. Haghighinia as his primary treating physician (PTP) for all purposes under section 4600. The letter requests that at the time of the initial evaluation, the doctor should perform a comprehensive evaluation and prepare a narrative report discussing all medical-legal issues including causation, apportionment, recommended treatment and disability status. (Exhibit 1, 10/2/2024, p. 1.) The proof of service does not identify the parties being served.

On October 3, 2024, Dr. Haghighinia examined applicant and issued a Primary Treating Physician's Comprehensive Medical-Legal Report for applicant's claimed injury. (Exhibit 3, 10/3/2024.) The report is addressed to the applicant's attorney and defendant. The report begins by saying:

> Mr. Rafols is a 39-year-old right-hand dominant male, who was seen in my Tustin office on the above date for a COMPREHENSIVE MEDICAL LEGAL AOE/COE

> EVALUATION AND TREATMENT in the capacity of primary treating physician of the injuries that occurred on the dates referenced above while under the employment of Golden Years Assisted Living, Inc.
>
> This Medical-Legal report is issued pursuant to Labor Code §§4620, et seq. and 5307.6, and California Code of Regulations § 9793(c)(2), which defines a comprehensive medical-legal evaluation as an evaluation of an injured worker which results in the preparation of a narrative medical report, and is performed by the primary treating physician for the purpose of proving or disproving a contested claim; and California Code of Regulations § 9793(h)(2), which provides that the report is obtained at the request of a party or parties for the purpose of proving or disproving a contested claim and addresses the disputed medical fact or facts specified by the party who requested the comprehensive medical-legal evaluation report.
>
> This patient alleges injuries to body parts which are in dispute. I have conducted a Medical-Legal evaluation to determine if the injuries to these body parts occurred as a consequence of the industrial injuries referenced above.
>
> Pursuant to California Code of Regulations §9793(b)(1), a contested claim is one in which the claims administrator has rejected liability for a claimed benefit

By way of history, applicant reported to Dr. Haghighinia that:

> The patient states that on June 16, 2024 while performing his usual and customary job duties, the patient was in the garage, when he was bitten by a spider on his right hand near his ring finger. The patient felt immediate pain and burning along with swelling around the bite. *The patient reported his injury to his Employer.* No action was taken.
>
> The patient continued to work, and his pain and swelling worsened. Additionally, his pain was radiating to his arm. *The patient once again complained to his Employer about his pain and swelling and was given ointment.* Ointment worsened his symptoms.
>
> On June 22, 2024, *the patient was taken to a clinic by his Employer.* Upon arriving, he was sent to an Emergency Room. The patient arrived at Saint Jude Emergency Room. He underwent x-rays and surgery to the right hand to remove infection. In addition, he was given antibiotics.
>
> The patient underwent a second small surgical procedure to his right-hand on June 23, 2024 as infection was severe. He remained in the hospital for 5 days.
> The patient spoke to his Employer and was terminated.

After evaluating applicant, Dr. Haghighinia stated,

> Upon evaluation, the patient's main pain involves at the right hand, at the site of incision, where the patient had from surgery to remove the infection from the spider bite. He has soreness upon palpation at the dorsum of the right hand. Scar tissue is noted at the posterior and medial portion of the hand and dorsum of the hand. The patient has decreased grip strength. Swelling is slightly noted at the medial side of the hand and the dorsum of the hand. Majority of the pain is noted at the metatarsophalangeal joints of the middle and little fingers. There is some numbness and tingling in both fingers as well.
>
> Based on evaluation we have done today, review of the history given by the patient, the mechanism of the injury, when the patient got bitten by the spider and ended up with infection of the right hand, it is my opinion with a reasonable degree of medical probability that the pain and discomfort the patient suffered in the right hand is as a result of spider bite and developing infection that happened on June 19, 2024 which ended him up in emergency room, while he was working for above mentioned employer.
>
> Given the patient's current symptoms, physical findings and the nature of his injury, I believe that this patient's current condition and complaints are the direct result of his industrial injury of 06/19/2024.

(Exhibit 3, 10/3/2024, pp. 3, 8, 9, emphasis added.)

On April 30, 2025, the parties submitted a Compromise & Release (C&R) resolving their dispute. Paragraph 9 states in pertinent part that:

> THIS CLAIM REMAINS DENIED AOE/COE BASED ON NO SUBSTANTIAL MEDICAL, LEGAL, OR FACTUAL EVIDENCE OF INDUSTRIAL INJURY. DEFENDANT ASSERTS APPLICANT DID NOT WORK ON ALLEGED INJURY DATE. NO PROOF OF SPIDER BITE OCCURRING AT WORK. NO MEDICAL PROOF OF SPIDER BITE CAUSING ABSCESS OR ANY COMPENSABLE INJURY. DEFENDANT CONTENDS IF THIS MATTER WERE TO PROCEED TO TRIAL, THE APPLICANT WOULD TAKE NOTHING. THE PARTIES HAVE CONSIDERED THE ISSUES, LIABILITY, AND COST OF LITIGATION AND REACHED THE NEGOTIATED SETTLEMENT TO BUY THEIR PEACE. THE APPLICANT WAS EVALUATED BY A QME BUT THE REPORT HAS NOT ISSUED, THE PARTIES WISH TO RESOLVE THE CASE WITHOUT THE BENEFIT OF A MEDICAL LEGAL FINDING. THE APPLICANT KNOWINGLY WAIVES HIS RIGIIT TO A FINAL REPORT PROM A PTP OR QME VIA THE ATTACHED QME WAIVER. . . .

On May 5. 2025, a WCJ issued an OACR. Notably, no medical reporting was submitted and no hearing was held.

Yet, the OACR states in pertinent part that:

> Upon review of the Board file and reasons set forth in the Compromise and Release, *a finding is made that serious and legitimate issues exist which, if resolved against the injured employee, would defeat the employee's rights to all workers' compensation benefits.*
>
> The parties to the above-entitled action having filed a Compromise and Release herein on 04/30/2025 settling this case for $20,000.00, and requesting that it be approved, and this Board having considered the entire record, including said Compromise and Release, now finds that it should be approved. *The entire medical record is incorporated herein by reference.* (Emphasis added.)

On May 30, 2025, lien claimant filed notice and request for allowance of lien.

On January 5, 2026, lien claimant and defendant proceeded to trial. Among the issues were injury AOE/COE; lien of Medland Medical; whether applicant is entitled to request a medical-legal evaluation performed by their designated PTP to address a disputed medical issue; whether lien claimant is entitled to the statutory increase or interest for failure to pay or deny within 60 days under Labor Code 4622(a); has defendant waived their right to raise further arguments not raised within the first 60 days in accordance with the *Colamonico* decision and CCR 10786 (e); liability for self-procured medical treatment under Labor Code 4600; whether UR would still be permissible if injury AOE/COE is found; whether Medland Medical is a proper medical corporation under the Mascone Knox Act.

On May 6, 2026, the WCJ issued her decision.

DISCUSSION
I.

Former Labor Code section 5909[1] 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.

[1] All further statutory references are to the Labor Code unless otherwise stated.

> (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 June 4, 2026 and 60 days from the date of transmission is August 3, 2026. This decision is issued by or on August 3, 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 June 4, 2026, and the case was transmitted to the Appeals Board on June 4, 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 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 June 4, 2026.

II.

We first consider the issue of whether applicant sustained an injury AOE/COE.

In her Opinion, the WCJ states that:

> There are two determinations that need to occur for an injury to be found in this case. First, Medland Medical needs to establish that there was a spider bite at work on June 17, 2024. Second, Medland Medical must establish that the spider bite caused a compensable injury.

> Turning to the first determination, no credible evidence was presented that a spider bite occurred at work on June 17, 2024. The only evidence of a spider bite occurring was Dr. Haghighinia's medical report of October 3rd, 2024. In the report, Applicant self-reports a spider bite.
> . . .
> While an applicant can report a mechanism of injury to a doctor, the determination of whether that incident occurred is a question of fact. Central to such a determination is whether the testimony is credible. Here, Applicant did not testify at trial. . . .Therefore, there is insufficient evidence to establish that a spider bite occurred at work on June 17, 2024. This alone is enough to not find AOE/COE in this case.
>
> Nevertheless, turning to the second determination, there is also no substantial medical evidence establishing AOE/COE. . . . The Dr. Haghighinia causation section merely reiterates Applicant's account of events. Applicant is alleging that a bug bite led to an infection, which then led to two surgeries, which then led to a need for further treatment before Dr. Haghighinia. Competent medical analysis is required to explain the medical nexuses in this case between the bug bite, need for surgery, and then need for treatment months later, post-surgeries. Moreover, the commentary in the report is speculative. Dr. Haghighinia reviews no medical report that confirms a surgery occurred, the outcome of the surgery, or the rationale of the surgery. Instead, Dr. Haghighinia relies on Applicant's lay opinion as to these medical facts, which are outside Applicant's knowledge as a lay person. For the foregoing reasons, the report is not substantial medical evidence of injury.

In her Opinion, the WCJ ignores that applicant told Dr. Haghighinia that he reported the bite to his employer and that his employer drove him to the hospital. The issue is whether the spider bite occurred, and whether applicant's injury required more than first aid, and that evidence is certainly within the scope of lay testimony. Notably, nowhere does defendant dispute this version of events. Upon return, if defendant continues to dispute applicant's account to Dr. Haghighinia that the injury was reported or that the employer drove applicant to the hospital, defendant employer can be called to testify. As we make no determination on the issue of whether the injury was AOE/COE, it is premature to consider whether the treatment was reasonable and necessary.

However, we make the following observations.

The WCJ's discussion with respect to whether there is substantial medical evidence of injury goes to the issue of the nature and extent of the injury, and not whether it occurred. In his report, Dr. Haghighinia requests that medical records be provided for his review, yet those records

were never provided. Moreover, in the C&R, the parties stipulated that applicant went to a QME but that they agreed that they did not wish to have the report.

The WCJ's failure to insist on medical evidence at the time of the approval of the C&R, even though Dr. Haghighinia's report already existed, and the WCJ's tacit approval of the parties' agreement that the QME not produce a report, essentially means that a lien claimant such as Dr. Haghighinia is effectively prevented from proving injury AOE/COE. Further, in the OACR, without creating a record or reviewing any evidence, the WCJ affirmatively states that they have reviewed the medical record and that a finding is made that serious issues exist. In our recent en banc opinion in *Gaines, et. al., v. ABM Aviation, Inc., et. al*. (2026) 91 Cal.Comp.Cases ___; 2026 Cal. Wrk. Comp. LEXIS 32 (Appeals Board en banc), we provided guidance as to a WCJ's responsibility to review medical reporting and as necessary, set a hearing before finding that a settlement is adequate.[2]

Upon return, if questions still exist as to whether the injury was AOE/COE, the WCJ can order that the medical records be provided to Dr. Haghighinia to provide a supplemental report and/or order that the QME report be prepared and produced. Alternatively, it may be more expedient for defendant to stipulate that the spider bit occurred AOE/COE and required more than first aid so that the parties and the WCJ can proceed to consideration of whether the medical treatment was reasonable and necessary.

III.

Section 4060(b) allows a medical-legal evaluation by the treating physician. Section 4620(a) defines medical-legal expense as "any costs and expenses…for the purpose of proving or disproving a contested claim." Section 4064(a) provides that the employer is liable for the cost of a comprehensive medical evaluation that is authorized by section 4060. The regulations provide that the "primary treating physician shall render opinions on all medical issues necessary to determine the employee's eligibility for compensation..." (Cal. Code Regs., tit. 8, § 9785(d).)

AD Rule 9793(h) states:

> (h) "Medical-legal expense" means any costs or expenses incurred by or on behalf of any party or parties, the administrative director, or the appeals board for X-rays, laboratory fees, other diagnostic tests, medical reports, medical records, medical

[2] We speculate that the grounds for a finding of adequacy may be the amount of money tendered by defendant for this type of injury, which appears to undermine any representation by defendant that the spider bite did not occur AOE/COE.

> testimony, and as needed, interpreter's fees, for the purpose of proving or disproving a contested claim. The cost of medical evaluations, diagnostic tests, and interpreters is not a medical-legal expense unless it is incidental to the production of a comprehensive medical-legal evaluation report, follow-up medical-legal evaluation report, or a supplemental medical-legal evaluation report and all of the following conditions exist:
>
> (1) The report is prepared by a physician, as defined in Section 3209.3 of the Labor Code.
>
> (2) The report is obtained at the request of a party or parties, the administrative director, or the appeals board for the purpose of proving or disproving a contested claim and addresses the disputed medical fact or facts specified by the party, or parties or other person who requested the comprehensive medical-legal evaluation report. Nothing in this paragraph shall be construed to prohibit a physician from addressing additional related medical issues.
>
> (3) The report is capable of proving or disproving a disputed medical fact essential to the resolution of a contested claim, considering the substance as well as the form of the report, as required by applicable statutes, regulations, and case law.
>
> (4) The medical-legal examination is performed prior to receipt of notice by the physician, the employee, or the employee's attorney, that the disputed medical fact or facts for which the report was requested have been resolved.
>
> (5) In the event the comprehensive medical-legal evaluation is served on the claims administrator after the disputed medical fact or facts for which the report was requested have been resolved, the report is served within the time frame specified in Section 139.2(j)(1) of the Labor Code.

(Cal. Code Regs., tit. 8, § 9793(h).)

Read together, these sections provide that a medical-legal evaluation performed by an employee's treating physician is a medical-legal evaluation obtained pursuant to section 4060 and that an employer is liable for the cost of reasonable and necessary medical-legal reports that are performed by the treating physician. The Appeals Board has previously held that there was no legal authority to support the proposition that an injured worker is not entitled to request a medical legal report from their PTP, and in turn, the report from that PTP is a medical-legal expense for which the defendant is liable. (*Warren Brower v. David Jones Construction* (2014) 79 Cal.Comp.Cases 550 (Appeals Board en banc).)

> Moreover, a medical-legal expense is ordinarily allowable if it is capable of proving or disproving a contested claim, if the expense was reasonably necessary at the time

> incurred, and if the cost incurred was reasonable. (Lab. Code, §§ 4620 et seq., 5307.6.)

(*Id.* at p. 556.)

In the instant case, medical reporting from a treating physician is relevant and admissible and could provide a basis for a decision. If lien claimant demonstrates that PTP Dr. Haghighinia's medical-legal report was reasonable and necessary, it is entitled to recover on that basis.

The Labor Code sections discussed above do not include the limitations set forth in AD Rule 9793(h). It is clear that the intention of section 4060(b) when read together with section 4064(a) is that a medical-legal evaluation performed by an employee's treating physician shall be considered a medical-legal evaluation pursuant to section 4060 and as such, the employer should be held liable for any associated reasonable and necessary medical-legal costs and expenses.

Section 4061.5 states that:

> the treating physician primarily responsible for managing the care of the injured worker or the physician designated by that treating physician shall, in accordance with rules promulgated by the administrative director, render opinions on all medical issues necessary to determine eligibility for compensation.

(Lab. Code, § 4061.5.)

Here, the WCJ concluded that Dr. Haghighinia's October 3, 2024 report is not a compensable medical-legal evaluation under section 4620. We disagree. In addition to the fact that applicant's attorney requested the medical-legal report from Dr. Haghighinia as stated in the medical-legal report, lien claimant's representative, Ms. Davis, identified Exhibits 1 and 2 on the PTCS. The documents were uploaded into EAMS on December 8, 2025. Thus, we conclude that Exhibits 1 and 2 should be entered into the Record of Proceedings as evidence and that Dr. Haghighinia's Report is a medical-legal report, and the issue of whether lien claimant is entitled to payment of medical-legal expenses is properly before the WCJ.

A lien claimant holds the burden of proof to establish all elements necessary to establish its entitlement to payment for a medical-legal expense. (See Lab. Code, §§ 3205.5, 5705; *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1115 [2012 Cal. Wrk. Comp. LEXIS 160] (Appeals Board en banc).) Thus, a lien claimant is required to establish that: 1) a contested claim existed at the time the expenses were incurred; 2) the expenses were incurred for the purpose of proving or disproving the contested claim; and 3) the expenses were reasonable and necessary at the time they were incurred. (Lab. Code, §§ 4620, 4621, 4622(f); *American Psychometric*

Consultants Inc. v. Workers' Comp. Appeals Bd. (*Hurtado*) (1995) 36 Cal.App.4th 1626 [60 Cal.Comp.Cases 559].) Pursuant to *Colamonico v. Secure Transportation* (2019) 84 Cal.Comp.Cases 1059 (Appeals Board en banc), a lien claimant holds the initial burden of proof under sections 4620 and 4621, and once a lien claimant has established these elements, they then may proceed to address the reasonable value of the services under section 4622.

Lien claimant's initial burden in proving entitlement to reimbursement for a medical-legal expense is to show that a "contested claim" existed at the time the service was performed. Subsection (b) sets forth the parameters for determining whether a contested claim existed (Lab. Code, § 4620(b).) There is a contested claim when: 1) the employer knows or reasonably should know of an employee's claim for workers' compensation benefits; and 2) the employer denies the employee's claim outright or fails to act within a reasonable time regarding the claim. (Lab. Code, § 4620(b).)

Here, on August 13, 2024, applicant filed an Application for a specific injury to his right arm and hand on June 16, 2024, while employed as a caregiver for defendant. The date of injury was corrected to June 17, 2024[3]. On September 11, 2024, defendant denied liability for applicant's claimed injury. On October 3, 2024, PTP Dr. Haghighinia examined applicant and issued a medical-legal report for the purpose of proving applicant's claim of injury of June 17, 2024. Thereafter, on April 30, 2025, the parties entered into a C&R, which stated in Paragraph 9, "This claim remains denied AOE/COE on no substantial medical. Legal, or factual evidence of industrial injury." Based on the record before us, we believe that lien claimant met their burden to show that the claim is a "contested claim."

Moreover, since applicant's injury claim was denied, it was reasonable and necessary for applicant to seek medical-legal reporting as evidence in support of his claim of injury. As explained above, once lien claimant has met the burden of proof pursuant to sections 4620 and 4621, then the analysis shifts to the reasonable value of the services pursuant to section 4622. Thus, it appears that lien claimant met its burden of proof under sections 4620 and 4621, and that the medical legal issue that is still in dispute is defendant's liability under section 4622.

Accordingly, we grant lien claimant's Petition for Reconsideration, rescind the F&O, and return this matter to the WCJ for further proceedings consistent with this opinion.

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[3] Dr. Haghighinia's medical-legal report lists the date of injury as June 19, 2024, but it is clear that the medical-legal report is for the June 17, 2024 date of injury as no other date of injury has been alleged.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration of the May 6, 2026 Findings and Order is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the May 6, 2026 Findings & Order is **RESCINDED** and the matter is **RETURNED** to the WCJ for further proceedings consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 3, 2026

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

MEDLAND MEDICAL
DAVIDSON CZULEGER & BLALOCK

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