**WORKERS' COMPENSATION APPEALS BOARD**

**STATE OF CALIFORNIA**

**LINDA MEDINA, *Applicant***

**vs.**

**AJOB STAFFING, INC.;**
**STARSTONE NATIONAL INSURANCE COMPANY, administered by CANNON COCHRAN, *Defendants***

**Adjudication Number: ADJ15972441**
**Pomona District Office**

# OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

We have considered the allegations of the Petition for Reconsideration and the contents of the Report and the Opinion on Decision of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report and the Opinion on Decision, both of which we adopt and incorporate, and for the reasons we discuss below, we will deny reconsideration.

## I.

Preliminarily, we note that former Labor Code[1] 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.

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

> (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 3, 2026 and 60 days from the date of transmission is Saturday, April 4, 2026. The next business day that is 60 days from the date of transmission is Monday, April 6, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, April 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 February 3, 2026, and the case was transmitted to the Appeals Board on February 3, 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 February 3, 2026.

[2] 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.

**II.**

Section 4600 requires the employer to provide reasonable medical treatment to cure or relieve from the effects of an industrial injury. (Lab. Code, § 4600(a).) Employers are required to establish a utilization review (UR) process for treatment requests received from injured employees' physicians. (Lab. Code, § 4610; *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd. (Sandhagen)* (2008) 44 Cal.4th 230, 236.) Section 4610.5 mandates Independent Medical Review (IMR) for "[a]ny dispute over a utilization review decision if the decision is communicated to the requesting physician on or after July 1, 2013, regardless of the date of injury." (Lab. Code, § 4610.5(a)(2); see also § 4062(b) [an employee's objection to a UR decision to modify, delay or deny a request for authorization (RFA) for a treatment recommendation must be resolved through IMR].)

Section 4610.6(h) authorizes the Appeals Board to review an IMR determination of the Administrative Director (AD). Under that authority, the AD's determination is presumed to be correct and may only be set aside by clear and convincing evidence of one or more of the following: (1) the AD acted without or in excess of his or her powers; (2) the AD's determination was procured by fraud; (3) the independent medical reviewer had a material conflict of interest; (4) the determination was the result of bias based on race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability; or (5) the determination was the result of an erroneous finding of fact not subject to expert opinion. (Lab. Code, § 4610.6(h).)

In *Stevens v. Workers' Comp. Appeals Bd*. (2015) 241 Cal.App.4th 1074 [80 Cal.Comp.Cases 1262], the Court of Appeal upheld section 4610.6 against a challenge to its constitutionality, holding that IMR determinations are subject to meaningful review, even if the Appeals Board cannot change determinations of medical necessity:

The Appeals Board's authority to review an IMR determination includes the authority to determine whether it was adopted without authority or based on a plainly erroneous fact that is not a matter of expert opinion. (Lab. Code, § 4610.6 (h)(1) & (5).) These grounds are considerable and include reviews of both factual and legal questions. If for example, an IMR determination were to deny certain medical treatment because that treatment was not suitable for a person weighing less than 140 pounds, but the information submitted for review showed the applicant weighed 180 pounds, the Appeals Board could set aside the determination as based on a plainly erroneous fact. (*Stevens, supra*, at pp. 1100–1101.)

Moreover, the Legislature enacted section 4610(k), which provides that a UR decision to modify or deny a treatment recommendation generally remains in effect for 12 months with no further action required by the employer. (Lab. Code, § 4610(k); see Cal. Code Regs., tit. 8, § 9792.9.1(h).) The Legislature provided an explicit exception to the 12-month window where the circumstances surrounding the original UR decision had changed. (Lab. Code, § 4610(k).) In so doing, the Legislature provided for a threshold factual inquiry into whether a change in circumstance created a new question of medical necessity.

In order to determine whether a new question of medical necessity has arisen, section 4610(k) sets forth a specific metric: "documented change in the facts material to the basis of the utilization review decision." (Lab. Code, § 4610(k).) This standard is applied in all instances where a treating physician seeks to establish that a previously denied or modified treatment request is now justified by an underlying change in the employee's condition that warrants a renewed assessment of the question of medical necessity. Thus, when a valid, timely UR decision issues which denies or modifies a treatment request, the employee may not circumvent the UR decision by resubmitting the same treatment request for another UR unless they can establish a documented change in the facts material to the original UR decision. The factual determination of whether there has been a change in circumstances is made by the Appeals Board.

For the reasons stated by the WCJ in the Report and Opinion on Decision, we agree that there has been no showing that the IMR determination was a result of a plainly erroneous finding of fact nor any showing that there was a material change in circumstances supporting need for a new UR.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

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

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**

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

**APRIL 6, 2026**

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

**LINDA MEDINA**
**PEREZ LAW, P.C.**
**EMPLOYER DEFENSE GROUP, LLP**

**PAG/bp**

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

## OPINION ON DECISION

THE FOLLOWING FACTS ARE ADMITTED:

1. Linda Medina, born […], while employed on February 3, 2022, as a labeler, at Fontana, California, by Ajob Staffing, Inc., sustained injury arising out of and in the course of employment to lumbar spine; and claims to have sustained injury arising out of and in the course of employment to neck, legs, toes, right shoulder, stress, and psyche.
2. At the time of injury, the employer's workers' compensation carrier was StarStone National Insurance Company.
3. The employer has furnished some medical treatment with the primary treating physician being Dr. Kambiz Hannani.
4. No attorney fees have been paid and no attorney fee arrangements have been made.

THE ISSUES ARE:

1. Whether the Independent Medical Review (hereinafter "IMR") determination dated July 22, 2025 was based on a plainly erroneous finding of fact that warrants reversal pursuant to Labor Code section 4610.6(h)(1) and (h)(5).
2. Whether there was a material change in circumstances supporting a new Request for Authorization such that defendant's June 5, 2025 Utilization Review deferral constituted a failure to conduct a timely Utilization Review in violation of Labor Code section 4610 and 8 CCR section 9792.9.1.

TRIAL TESTIMONY:

Applicant Linda Medina testified during the November 6, 2025 Trial that her back symptoms are getting worse and that she is ready and willing to undergo back surgery. In response to defendant's argument that she previously stated that she did not want surgery as noted in the PQME reporting, applicant testified that she is more needing surgery than wanting surgery.

DISCUSSION:

Applicant argues that the Independent Medical Review (IMR) determination dated July 22, 2025 was the result of a plainly erroneous express or implied finding of fact and that the mistake of fact is a matter of ordinary knowledge based on the determination submitted for review pursuant to Labor Code Section 4610.5 and not a matter that is subject to expert opinion. In particular, applicant argues that the IMR reviewer erred in stating that the medical records did not include

evidence of "concomitant instability" to support the request for surgery. Applicant argues that "there was and is evidence of concomitant instability as stated by the PTP's report" dated June 2, 2025.

However, in the pleadings filed, applicant admits that the June 2, 2025 report was never forwarded to or reviewed by IMR. Therefore, the alleged erroneous express or implied finding of fact could not have been based on the June 2, 2025 report itself.

Further, as discussed below, the June 2, 2025 report by PTP Dr. Hannani fails to specify the x-rays or other records that might demonstrate an erroneous express or implied finding of fact by IMR. In fact, applicant has not identified any medical report or other record submitted to and reviewed by IMR that would support the argument that the July 22, 2025 IMR determination was the result of a "plainly erroneous express or implied finding of fact."

Finally, assuming there is a difference of opinion between the July 22, 2025 IMR determination, the June 2, 2025 report from PTP Dr. Hannani, interpretation of applicant's x-rays and/or any other medical evidence considered by IMR, this would likely present an issue requiring expert medical opinion to resolve and would not be a "matter of ordinary knowledge" for determination by the undersigned.

As for applicant's argument that there was a material change in circumstances supporting a new Request for Authorization such that defendant's June 5, 2025 Utilization Review deferral constituted a failure to conduct a timely Utilization Review, it is noted that both the May 9, 2025 and June 2, 2025 reports from PTP Dr. Hannani include the exact same paragraph (including typographical errors) describing the request for back surgery as follows:

> "Her xray showl (sic) L4/L5 slippage which changes from 5mm to 11 mm between the dynamic images; given the significant lateral recess stenosis and slippage noted on the mri (sic) combined with the dynamic instability, this patient is at significant increased risk of instability with posterior decomression (sic) and resection of her facet required for proper decompression. She requires a fusion/decompression at L4/L5. I will request this surgery for her due to the increased weakness and failure of extensive conservative care."

Immediately following this same paragraph, Dr. Hannani's June 2, 2025 report notes that, "This evaluation was done via TELEHEALTH" with the next paragraph noting defendant's denial of the requested surgery and the paragraph after that stating as follows:

> "The xray report documents that the patient moves from 8mm of listhesis to 12 mm on flx extn films: Our plan to do a decompression with facet arthrosis noted at L4/L5 combined with 4 to 5 mm of instability on flexion extension xrays requires a fusion and this does FALL WITHIN THE GUIDELINES FOR SURGICAL FUSION." (Emphasis original.)

Dr. Hannani does not, however, indicate in his June 2, 2025 report what x-rays he is referring to, when they were obtained or how they differ from any x-rays he might have relied upon in his May 9, 2025 report. In other words, Dr. Hannani's June 2, 2025 report fails to identify any change in the applicant's condition subsequent to the May 9, 2025 report and/or the May 20, 2025 utilization review.

It therefore appears that, rather than demonstrating a change in the applicant's condition requiring a new utilization review, Dr. Hannani's June 2, 2025 report is an attempt at clarifying and/or reinforcing the opinion(s) stated in the previous May 9, 2025 report recommending the same surgery that was denied by utilization review with said denial being upheld by IMR.

Whereas there is no evidence of a material change in circumstances, it appears that defendant's June 5, 2025 deferral pending the July 22, 2025 IMR determination was reasonable and that a new utilization review was NOT required based on the June 2, 2025 report from PTP Dr. Hannani.

Dated: 01/12/2026

**BERNIE L. WILLIAMSON**
Workers' Compensation Judge

**REPORT AND RECOMMENDATION**
**ON PETITION FOR RECONSIDERATION**

**I.**
**INTRODUCTION**

| | | | |
|---|---|---|---|
| 1. | Applicant's Occupation | : | Labeler |
| | Applicant's Age | : | 40 on date of injury |
| | Date of Injury | : | February 3, 2022 |
| | Parts of Body Injured | : | Accepted lumbar spine. Disputed neck, legs, toes, right shoulder, stress and psyche. |
| 2. | Identity of Petitioner | : | Applicant Linda Medina |
| | Timeliness | : | Petition is timely |
| | Verification | : | Petition is verified |
| 3. | Date of Order | : | January 13, 2026 |

4. Petitioner contends that the court erred by finding that:
   a. The Independent Medical Review (IMR) determination dated July 22, 2025 was NOT based on a plainly erroneous express or implied finding of fact requiring reversal.
   b. The June 2, 2025 report from PTP Dr. Kambiz Hannani failed to identify a material change in circumstances requiring a new utilization review following the May 20, 2025 utilization review denial.

**FACTS**

An Application for Adjudication of Claim was filed on or about March 28, 2022. This matter went to trial on November 6, 2025 with a Findings and Award and Opinion on Decision issued on January 13, 2026. The issues submitted for decision were as follows:

1. Whether the Independent Medical Review (hereinafter "IMR") determination dated July 22, 2025 was based on a plainly erroneous finding of fact that warrants reversal pursuant to Labor Code section 4610.6(h)(1) and (h)(5).
2. Whether there was a material change in circumstances supporting a new Request for Authorization such that defendant's June 5, 2025 Utilization Review deferral constituted a failure to conduct a timely Utilization Review in violation of Labor Code section 4610 and 8 CCR section 9792.9.1.

In the case at hand, PTP Dr. Kambiz Hannani, M.D. issued a May 9, 2025 report requesting surgery authorization. (Exhibit 3.) In particular, the report stated:

"We are requesting:
1. AP fusion with decompression/xlif L4/L5,
2. Anterior exposure with co-surgeon Vascular surgery and assistant surgeon,
3. preoperative clearance by Medical Doctor Sr. George's Medical Clinic,
4. 12 sessions of PT to start 6 to 12 weeks postop,
5. raised toilet seat and walker
6. Hospital stay of 3 days."

Defendant's May 20, 2025 Utilization Review (UR) denied authorization for the surgery. (Joint 1.) Applicant timely sought Independent Medical Review (IMR). IMR issued a July 22, 2025 determination upholding the UR denial. (Exhibit B.) Applicant appealed the IMR determination. (Exhibit 2.)

In the meantime, PTP Dr. Hannani issued a June 2, 2025 report (Exhibit 4) that applicant contends evidences: (1) that the IMR decision "was the result of a plainly erroneous express or implied finding of fact, provided that the mistake of fact is a matter of ordinary knowledge based on the information submitted for review pursuant to Section 4610.5 and not a matter that is subject to expert opinion" (Labor Code § 4610.6(h)(5)) and/or (2) that a new utilization review was required pursuant to Labor Code 4610(k) which states as follows:

> "(k) A utilization review decision to modify or deny a treatment recommendation shall remain effective for 12 months from the date of the decision without further action by the employer with regard to a further recommendation by the same physician, or another physician within the requesting physician's practice group, for the same treatment unless the further recommendation is supported by a documented change in the facts material to the basis of the utilization review decision."

## II.
## DISCUSSION

A Petition for Reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (***Rymer v. Hagler*** (1989) 211 Cal.App.3d 1171, 1180; ***Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)*** (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410, 413]; ***Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)*** (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661, 665]) or determines a "threshold" issue that is fundamental to the claim for

benefits. (***Maranian v. Workers' Comp. Appeals Bd.*** (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650, 650-651, 655-656].)

As discussed in the January 13, 2026 Findings and Award and Opinion on Decision, applicant argues that the June 2, 2025 report by PTP Dr. Hannani evidences that the July 22, 2025 IMR determination upholding Defendant's May 20, 2025 UR is based on a plainly erroneous finding of fact. Again, however, the June 2, 2025 report by PTP Dr. Hannani was never submitted to or reviewed by IMR. As such, the alleged erroneous finding of fact logically cannot be based on IMR misreading the June 2, 2025 report.

It therefore appears that applicant is arguing that the June 2, 2025 report by PTP Dr. Hannani evidences that IMR misread other unspecified reports in order to reach a plainly erroneous express or implied finding of fact. However, neither Dr. Hannani nor the applicant identify which if any report(s) IMR allegedly misread to demonstrate the alleged plainly erroneous factual error. Applicant has therefore failed to meet her burden of proof on this issue.

Nonetheless, applicant argues that IMR erred in finding that "there was no evidence that Applicant had any segmental instability at L4/L5." (Applicant's Verified Petition for Reconsideration at page 6, lines 25-27.) However, this both oversimplifies and misrepresents the lengthy rationale stated at page 3 of July 22, 2025 IMR Determination. (Exhibit B.)

IMR did not state that there was "no instability." IMR stated that, "the medical records did not include evidence of concomitant instability to support the request." Again however, applicant failed to identify and/or offer into evidence any report reviewed by IMR to contradict this finding.

Next, applicant argues that the June 2, 2025 report by PTP Dr. Hannani "contained new and significant medical findings" requiring that defendant conduct a new UR despite the May 20, 2025 UR denial of the same surgery recommended in Dr. Hannani's May 9, 2025 report. However, based on a line-by-line comparison of Dr. Hannani's May 9, 2025 and June 2, 2025 reports, it is noted that the reports are identical except for 4 paragraphs at the bottom of page 3 of the June 2, 2025 report. In other words, the sections of the reports under the headings of Subjective Complaints, Objective Complaints, Motor Examination, Sensation, Reflexes, Lower Extremities Examination, Bilateral Hips, Vascular Examination, Diagnosis, Prescriptions Given and Disability Status are word for word the same.

As for the four paragraphs added to the June 2, 2025 report under the heading of

Plan/Discussion, Dr. Hannani fails to specify any new diagnostic reports or measurements. Rather, it appears that the added paragraphs are a restatement of his findings in the May 9, 2025 report in response to the May 20, 2025 UR denial. As such, it remains the opinion of the undersigned that Dr. Hannani's June 2, 2025 report does not evidence any material change in the applicant's medical condition subsequent to the May 20, 2025 UR denial.

Further, it is noted that just 24 days elapsed between Dr. Hannani's May 9, 2025 and June 2, 2025 reports. Thus, assuming solely for the sake of argument that Dr. Hannani's June 2, 2025 report described a material change in applicant's medical condition, Dr. Hannani failed to address or explain how the alleged material change occurred during the 24-day days elapsed between the two reports. As such, Dr. Hannani's June 2, 2025 report would not constitute substantial medical evidence on the issue.

At trial, applicant credibly testified that her back symptoms worsened during 2025 to the point that she is now willing to go forward with back surgery. However, the applicant was not asked and her testimony therefore did not identify any material change in her medical condition following the May 20, 2025 UR denial that would have required that defendant perform a second UR for the same surgery.

## III.
## RECOMMENDATION

In light of the above, it is respectfully recommended that the Petition for Reconsideration be denied.

DATE: February 2, 2026

**Bernie L. Williamson**
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE