

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

MARLENA RAMIREZ, *Applicant*

vs.

**SAN ANDREAS REGIONAL CENTER; REDWOOD FIRE AND CASUALTY
COMPANY; COUNTY OF MONTEREY, *Permissibly Self-Insured*; CASTLEWOOD
TREATMENT CENTER; ARGONAUT INSURANCE COMPANY, *Defendants***

**Adjudication Numbers: ADJ11231282, ADJ12954579, ADJ12954580
Salinas District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Amended Findings and Award of November 18, 2025, wherein it was found that while employed during a cumulative period spanning three different employers ending on September 27, 2019, applicant sustained industrial injury to her wrists, neck, thoracic spine and lumbar spine causing permanent disability of 33%, additional unpaid temporary disability from April 27, 2020 to August 30, 2020, and the need for further medical treatment.¹ It was also found that "The date of injury under Labor Code section 5412 is the period 6/28/2011 through 2/25/2016." Although the decision contains a range, in the Opinion on Decision, the WCJ seems to state that the section 5412 date is February 26, 2016 (although in an apparent typographical error, the WCJ wrote "1/26/2016.") In the Report and Recommendation on Petition for Reconsideration, the WCJ writes that the section 5412 date of injury is February 25, 2016. In the decision, it was found that applicant's additional temporary disability was payable at the rate of \$407.22 per week. (Finding No. 2 and Award, ¶3.)

¹ Applicant filed three Applications for Adjudication of Claim alleging separate cumulative injuries against each respective employer. These three cases were consolidated for trial and it appears that the WCJ found that there was only one cumulative injury spanning all three employments.

Applicant contends that the WCJ erred in finding temporary disability payable at the rate of \$407.22 per week. We have not received an answer, and the WCJ has filed a Report and Recommendation on Petition for Reconsideration.

As explained below, we will deny the applicant's Petition.

Preliminarily, we note that former Labor Code 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 Labor Code 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 December 18, 2025 and 60 days from the date of transmission is Monday, February 16, 2026. Since Monday, February 16, 2026 was the Presidents Day holiday, the next business day that is 60 days from the date of transmission is Tuesday, February 17, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on February 17, 2026, so we have timely acted on the petition as required by Labor Code section 5909(a).

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.

Labor Code 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. Labor Code 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 December 18, 2025, and the case was transmitted to the Appeals Board on December 18, 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on December 18, 2025.

Turning to the merits, at the October 7, 2025 trial in this matter, the parties stipulated that, "If the date of injury is found to be 2016, the correct temporary disability rate would be \$407.22 per week." (Minutes of Hearing and Summary of Evidence of October 7, 2025 trial at p. 3.) Since the average weekly wage and temporary disability indemnity rate was stipulated to, temporary disability rate was not listed as an issue for determination at trial. (Minutes of Hearing and Summary of Evidence of October 7, 2025 trial at p. 3.)

"A stipulation is ... binding ... where the stipulation is not contrary to law, court rule or policy." (*Robinson v. Workers' Comp. Appeals Bd.* (1987) 194 Cal.App.3d 784, 790 [52 Cal.Comp.Cases 419].) A stipulation may be disregarded only on a showing of "good cause" (*Robinson, supra*; *County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1118-1121 [65 Cal.Comp.Cases 1]).

Average weekly earnings are determined as of the "time of injury" (Lab. Code, § 4453, subd. (c)) and the date an injury first causes compensable disability (See generally *Van Voorhis v. Workmen's Comp. Appeals Bd.* (1974) 37 Cal.App.3d 81 [39 Cal.Comp.Cases 81].) Here, applicant stipulated to a temporary disability indemnity rate and did not raise any issue regarding the indemnity rate. (Lab. Code, § 5502, subd. (d)(3).) Applicant has not set forth good cause to

disregard her stipulation or why the earnings issue was not raised at trial and has thus waived this issue. We therefore deny the applicant's Petition.

For the foregoing reasons,

IT IS ORDERED that Applicant's Petition for Reconsideration of the Findings and Award of November 17, 2025 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 17, 2026

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

**MARLENA RAMIREZ
DILLES LAW GROUP
D'ANDRE LAW
LAUGHLIN, FALBO, LEVY & MORESI
MULLEN & FILIPPI**

DW/oo

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