

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

**MIGUEL DEL RIO, *Applicant***

**vs.**

**VALLARTA SUPERMARKETS; SAFETY NATIONAL CASUALTY COMPANY,  
administered by CORVEL, *Defendants***

**Adjudication Number: ADJ8293451  
Los Angeles District Office**

**OPINION AND ORDER  
GRANTING PETITION  
FOR RECONSIDERATION**

Cost petitioner, Supreme Copy Service, seeks reconsideration of the “Findings and Order” (F&O) issued on December 31, 2025, by the workers’ compensation administrative law judge (WCJ). The WCJ found, in pertinent part, that defendant timely objected to two invoices of cost petitioner and that cost petitioner did not timely seek a second bill review for those invoices and awarded costs, including penalties and interest for other services provided.

Cost petitioner contends that the defendant’s Explanations of Review (“EOR”) were defective and thus cost petitioner was not required to seek a second bill review. Cost petitioner also contends that defendant failed to attach a proof of service to its explanation of review, and that cost petitioner was not required to conduct a second bill review because it never received defendant’s objections.

We have not received an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration and the contents of the WCJ’s Report. Based on our review of the record and for the reasons discussed below, we will grant cost petitioner’s Petition for Reconsideration. Our order granting the Petition for Reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further

consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code<sup>1</sup> section 5950 et seq.

## FACTS

Per the WCJ's Report:

The case-in-chief was settled by Compromise and Release in June 2014 in the amount of \$35,000, by which C&R and Order Approving C&R are not in EAMS-FileNet.

Applicant's attorney, Lionel Giron, had issued Subpoena Duces Tecum (herein after referred to as "SDT") for various records, but only four SDT were in [dispute]; they are invoices #134872, #161677, #172341, and #134874.

For invoice #134872: on 6/17/2013, AA, through Supreme Copy, ordered records from Jalil Rashit D.C. (Joint Exhibit A). On 6/20/2013, Subpoena Duces Tecum issued for records from Jalil Rashit (Joint Exhibit D). On 7/30/2023, Supreme Copy served Sedgwick with invoices for the service and charged \$372.62 for 46 pages (Cost Petitioner Exhibit 1). Sedgwick paid \$21.60. (Joint Exhibits H, I, J). The EOR was served on 11/12/2023 and not timely issued within the 60-day statutory window (Defendant Exhibit B).

For invoice #161677: on 12/06/2013, AA, through Supreme Copy, ordered records from EDD. (Joint Exhibit B). On 12/13/2014, Subpoena Duces Tecum issued for records from EDD (Joint Exhibit F). On 3/21/2014, Supreme Copy served Sedgwick with invoices for the service and charged \$181.78 for 6 pages (Cost Petitioner Exhibit 3). The EOR was timely served on 5/1/2024 within the 60-day window (Defendant Exhibit F). After waiting for more than seven (7) years, exceeding the statutory 90-day window after issuing the EOR, Supreme Copy requested second bill reviews on 7/7/2021, 7/26/2021 and 11/30/2021 (Joint Exhibits H, I, and J).

For invoice #172341: On 2/24/2014, AA, through Supreme Copy, ordered records from Dr. Jalil Rashti. (Joint Exhibit C). On 2/28/2014, Subpoena Duces Tecum issued for records from Jalil Rashti (Joint Exhibit G). On 3/21/2014, Supreme Copy served Sedgwick with invoices for the service and charged \$564.52 for 181 pages (Cost Petitioner Exhibit 4). The EOR was timely served on 5/1/2024 within the 60-day window (Defendant Exhibit F). After waiting for more than seven (7) years, exceeding the statutory 90-day window after issuing the EOR, Supreme Copy requested second bill reviews on 7/7/2021, 7/26/2021 and 11/30/2021 (Joint Exhibits H, I, and J).

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<sup>1</sup> All future references are to the Labor Code unless noted.

For invoice #134874: On 6/20/2013, for records from Thomas Curtis, MD (Joint Exhibit E), On 8/2/2013, Supreme Copy served Sedgwick with invoices for the service and charged \$550.20 for 185 pages (Cost Petitioner Exhibit 2). And Sedgwick paid \$35.50. (Joint Exhibits H, I, J). The EOR was served on 4/22/2014 and not timely issued within the statutory 60-day window (Defendant Exhibit C).

(WCJ's Report, pp. 2-3.)

## **DISCUSSION**

### **I.**

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. (§ 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.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

(§ 5909.)

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 4, 2026, and 60 days from the date of transmission is Sunday, April 5, 2026, which by operation of law means this decision is due by Monday, April 6, 2026. (Cal. Code Regs., tit. 8, § 10600.). This decision issued by or on 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.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on February 4, 2026, and the case was transmitted to the Appeals Board on February 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 February 4, 2026.

## II.

We highlight several legal principles that may be relevant to our review of this matter.

A cost petitioner holds the burden of proof to establish all elements necessary to establish its entitlement to payment for a medical-legal expense. (See §§ 3205.5, 5705.5; *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1115 (Appeals Board en banc).) As we explained in our en banc decision in *Colamonico v. Secure Transportation* (2019) 84 Cal. Comp. Cases 1059 (Appeals Board en banc), section 4622 provides the framework for reimbursement of medical-legal expenses. Subsection (f) of the statute, however, specifically states that “[t]his section is not applicable unless there has been compliance with Sections 4620 and 4621.” (§ 4622(f).) Thus, a cost petitioner 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 were incurred. (§§ 4620, 4621, 4622(f); *Colamonico, supra*, 84 Cal.Comp.Cases 1059.)

There does not appear to be an issue in this matter as to whether a contested claim existed. Instead, the issue appears to be defendant’s objection that the services provided by cost petitioner were unauthorized and duplicative.

Cost petitioner argues that defendant’s EORs were deficient and thus, defendant waived its objection. This issue has been addressed in prior panels as follows:

Lien claimant argues that defendant's Explanations of Review (EOR) pertaining to its invoices did not comply with Labor Code section 4603.3. Therefore, lien claimant argues defendant has waived any objection to the amount of the invoices; and that it was not required to request a second bill review pursuant to AD Rule 9794(c) (Cal. Code Regs., tit. 8, § 9794(c)) and WCAB Rule 10451.1(f)(1)(A)(i) (Cal. Code Regs., tit. 8, § 10451.1(f)(1)(A)(i)).

We find the facts of this case to be substantially similar to the facts in our panel decision in *Perez v. Colorama Wholesale Nursery* (January 25, 2018, ADJ9120523), in which we held that lien claimant should have raised any issues or deficiencies in defendant's EOR in a request for a second review pursuant to Labor Code section 4622(b)(1) (Lab. Code, § 4622(b)(1)). The purpose of the process established in Labor Code sections 4603.3 and 4622 is to allow the parties to resolve medical-legal billing disputes. This is only accomplished by informing the other party of any issues or deficiencies through objections.

Furthermore, lien claimant's position is not consistent with Labor Code section 4622(b)(1) or (c). Labor Code section 4622(b)(1) states that "[i]f the provider contests the amount paid, the provider may request a second review within 90 days of the service of the explanation of review." (Lab. Code, § 4622(b)(1).) Labor Code section 4622(c) establishes the consequence of a provider's failure to object to an employer's denial of all or a portion of the amount billed: "If the provider does not object to the denial within 90 days, neither the employer nor the employee shall be liable for the amount that was denied." (Lab. Code, § 4622(c).)

(*Argueta v. La Brea Dining*, 2018 Cal. Wrk. Comp. P.D. LEXIS 522, \*3-4.)<sup>2</sup>

Next, cost petitioner raises an issue that defendant failed to prove service of its EORs. Section 5313 requires a WCJ to state the "reasons or grounds upon which the determination was made." The WCJ's opinion on decision "enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful." (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc), citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].) A decision "must be based on admitted evidence in the

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<sup>2</sup> Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal. App. 4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citeable authority and the Appeals Board may consider these decisions to the extent that their reasoning is found persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal. Comp. Cases 228, fn. 7 (Appeals Board En Banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal. App. 3d 1260, 1264, fn. 2, [54 Cal.Comp.Cases 145].) Here, we refer to the cited panel decision because it considered a similar issue. We recommend that practitioners proceed with caution when citing to a panel decision and verify its subsequent history.

record” (*Hamilton, supra*, at p. 478), and must be supported by substantial evidence. (§§ 5903, 5952(d); *Lamb v. Workmen’s Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen’s Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) As required by section 5313 and explained in *Hamilton*, “the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision.” (*Hamilton, supra*, at p. 475.)

Here, there is no testimony in the record at all. The EORs in evidence contain addresses, however no evidence of mailing exists. It appears that further development of the record may be warranted as to whether cost petitioner received the EORs.

### III.

Under our broad grant of authority, our jurisdiction over this matter is continuing.

A grant of reconsideration has the effect of causing “the whole subject matter [to be] reopened for further consideration and determination” (*Great Western Power Co. v. Industrial Acc. Com. (Savercool)* (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of “[throwing] the entire record open for review.” (*State Comp. Ins. Fund v. Industrial Acc. Com. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci. Com.* (1958) 50 Cal.2d 360, 364.) “[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.”; see generally, § 5803 [“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”.]

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 14 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen’s Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d

374, 381; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593.) 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]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ “]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].)

Section 5901 states in relevant part that:

No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. ...

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to sections 5950 et seq.

Accordingly, we grant cost petitioner’s Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. While this matter is pending before the Appeals Board, we encourage the parties to participate in the Appeals Board’s voluntary mediation program. Inquiries as to the use of our mediation program can be addressed to [WCABmediation@dir.ca.gov](mailto:WCABmediation@dir.ca.gov).

For the foregoing reasons,

**IT IS ORDERED** that cost petitioner's Petition for Reconsideration of the Findings and Order issued on December 31, 2025, by the workers' compensation administrative law judge is **GRANTED**.

**IT IS FURTHER ORDERED** that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

**WORKERS' COMPENSATION APPEALS BOARD**

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

**I CONCUR,**

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

**/s/ PAUL F. KELLY, 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.**

**MIGUEL DEL RIO  
LIONEL GIRON  
SUPREME COPY  
WOOLVERTON WOLSEY**

**EDL/mt**

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