

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

WONDA RAYMOND, *Applicant*

vs.

**SEIU LOCAL 2015; REDWOOD FIRE AND CASUALTY INSURANCE COMPANY;
adjusted by BERKSHIRE HATHAWAY HOMESTATE COMPANIES, *Defendants***

**Adjudication Number: ADJ11938023
Sacramento District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR RECONSIDERATION AND
DECISION AFTER RECONSIDERATION**

Defendant seeks reconsideration of the Findings and Order (F&O) of September 30, 2025, and the Amended Findings and Order (Amended F&O) of October 10, 2025. In the F&O of September 30, 2025, the workers' compensation judge (WCJ) found in relevant part that applicant while employed by defendant sustained injury arising out of and in the course of employment (AOE/COE) to her right ankle, right foot, bilateral wrists, tailbone/coccyx, claims to have sustained injury AOE/COE to her left ankle, bilateral knees, psyche, heart, and stroke/brain; and that applicant is entitled to panels in the fields of cardiovascular disease and psychiatry. Following an October 7, 2025 letter from applicant's attorney requesting the WCJ's decision be corrected to order panels in *psychology* and cardiovascular, rather than *psychiatry* and cardiovascular, the WCJ issued the Amended F&O. Therein, the WCJ corrected the Order to specify a panel in psychology rather than psychiatry, but did not amend Findings of Fact number three (3) to reflect the change in specialty from psychiatry to psychology.

Defendant contends that medical treatment for psyche and stroke constitute new and further disability; that applicant's stroke and psyche claims arose more than five years from the date of injury and therefore no Qualified Medical Evaluator (QME) panel to address these claims should issue; that a QME to address applicant's heart condition is unnecessary because there are no medical treatment reports linking the orthopedic claim to her heart condition; that, if an additional

QME is ordered, it should only be to address the Takotsubo syndrome; and that the finding of facts indicates a psychiatry panel but the order indicates a psychology panel.

We have received an Answer from applicant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations of the Petition for Reconsideration, the Answer, and the contents of the Report with respect thereto. Based on our review of the record, and for the reasons stated below, we will grant reconsideration for the sole purpose of amending Findings of Fact number 3 to state that applicant is entitled to panels in the fields of cardiovascular disease and psychology. The Appeals Board may correct clerical errors at any time. (*Toccalino v. Worker's Comp. Appeals Bd.* (1982) 128 Cal.App.3d 543, 558 [47 Cal.Comp.Cases 145].) We will otherwise affirm the WCJ's decision based upon the WCJ's analysis of the merits of the petitioner's arguments in the WCJ's Report.

I.

Former Labor Code¹ 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.
 - (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

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

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 5, 2025, and 60 days from the date of transmission is Sunday, January 4, 2025. The next business day that is 60 days from the date of transmission is Monday, January 5, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Monday, January 5, 2025, 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 5, 2025, and the case was transmitted to the Appeals Board on November 5, 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 5, 2025.

II.

If a decision includes resolution of a “threshold” issue, then it is a “final” decision, whether or not all issues are resolved or there is an ultimate decision on the right to benefits. (*Aldi v. Carr, McClellan, Ingersoll, Thompson & Horn* (2006) 71 Cal.Comp.Cases 783, 784, fn. 2 (Appeals Board *en banc*.)) Threshold issues include, but are not limited to, the following: injury arising out of and in the course of employment, jurisdiction, the existence of an employment relationship and statute of limitations issues. (See *Capital Builders Hardware, Inc. v. Workers’ Comp. Appeals Bd.*

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.

(*Gaona*) (2016) 5 Cal.App.5th 658, 662 [81 Cal.Comp.Cases 1122].) Failure to timely petition for reconsideration of a final decision bars later challenge to the propriety of the decision before the WCAB or court of appeal. (See Lab. Code, § 5904.) Alternatively, non-final decisions may later be challenged by a petition for reconsideration once a final decision issues.

A decision issued by the Appeals Board may address a hybrid of both threshold and interlocutory issues. If a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the decision resolves a threshold issue. However, if the petitioner challenging a hybrid decision only disputes the WCJ's determination regarding interlocutory issues, then the Appeals Board will evaluate the issues raised by the petition under the removal standard applicable to non-final decisions.

Here, the WCJ's decision includes a finding regarding a threshold issue, that applicant sustained injury AOE/COE. Accordingly, the WCJ's decision is a final order subject to reconsideration rather than removal.

Although the decision contains a finding that is final, the petitioner is only challenging an interlocutory finding/order in the decision, the issuance of QME panels. Therefore, we will apply the removal standard to our review. (See *Gaona, supra*.)

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that significant prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).) Here, for the reasons stated in the WCJ's report, we are not persuaded that significant prejudice or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy.

For the foregoing reasons,

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

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Amended Findings and Order of October 10, 2025 is **AFFIRMED, EXCEPT** that it is **AMENDED** as follows:

FINDINGS OF FACT:

...

3. Applicant is entitled to panels in the fields of cardiovascular disease and psychology.

...

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER

CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JANUARY 5, 2026

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

**WONDA RAYMOND
EASON & TAMBORNINI
MULLEN & FILIPPI**

JMR/pm

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