

1 **WORKERS' COMPENSATION APPEALS BOARD**

2 **STATE OF CALIFORNIA**

3
4 **CHRISTOPHER COCKRELL,**

5 *Applicant,*

6 vs.

7 **FARMERS INSURANCE; LIBERTY**
8 **MUTUAL INSURANCE COMPANY,**

9 *Defendants.*

Case Nos. ADJ504565 (SBR 0266567)
ADJ2584271 (SBR 0297503)

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

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11 Defendant seeks reconsideration of a workers' compensation administrative law judge's (WCJ)
12 Findings & Award of June 20, 2012, wherein it was found that, "Reimbursement for self-procured
13 medically recommended marijuana as opposed to providing or paying a supplier of this drug is awarded
14 in a sum not to exceed the lower of the fee schedule for medications being replaced by the medical
15 cannabis or the actual expense of the self-procured item."

16 Defendant contends that the WCJ erred in finding that applicant was entitled to reimbursement
17 for self-procured medical marijuana. We have received an answer, and the WCJ has filed a Report and
18 Recommendation on Petition for Reconsideration.

19 It appears that in the proceedings on this issue, neither the parties nor the WCJ considered the
20 application of Health and Safety Code section 11362.785(d), which states that "Nothing in this article
21 [Medical Marijuana Program] shall require a governmental, private, or any other health insurance
22 provider or health care service plan to be liable for any claim for reimbursement for the medical use of
23 marijuana." (See also Lab. Code, §§ 4600.35 et seq.)

24 Accordingly, we will grant reconsideration, rescind the Findings & Award of June 20, 2012, and
25 return this matter to the trial level for further proceedings to consider application of Health and Safety
26 Code section 11362.785(d) to this matter. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82
27 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805]; *Gangwish v. Workers' Comp. Appeals Bd.* (2001)

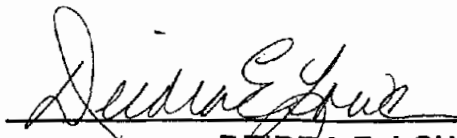
1 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584].) After the WCJ issues a decision, any aggrieved
2 party may petition for reconsideration.

3 For the foregoing reasons,

4 **IT IS ORDERED** that reconsideration of the Findings & Award of June 20, 2012 is hereby
5 **GRANTED**.

6 **IT IS FURTHER ORDERED** as the Decision after Reconsideration of the Workers'
7 Compensation Appeals Board that the Findings & Award of June 20, 2012 is hereby **RESCINDED** and
8 that this matter is **RETURNED** for further proceedings and decision consistent with the opinion herein.

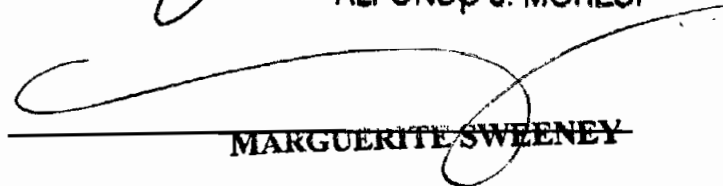
9 **WORKERS' COMPENSATION APPEALS BOARD**

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12 **DEIDRA E. LOWE**

13 **I CONCUR,**

14 
15 **ALFONSO J. MOHESI**

16 
17 **MARGUERITE SWEENEY**



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

19 **SEP 14 2012**

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

22 **CHRISTOPHER COCKRELL**
23 **MORSE, GIESLER, CALLISTER & KARLIN (2)**
24 **HARRISON, EICHENBERG & MURPHY**

25 **DW:jmp**
26
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