

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

JIAN KALLASH, *Applicant*

vs.

**MACYS, Permissibly Self-Insured,
Administered by SEDGWICK CLAIMS MANAGEMENT,
*Defendants***

**Adjudication Number: ADJ12663627
San Diego 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 Recommendation (Report) 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 Opinion on Decision and the Report, both of which we adopt and incorporate, we will deny reconsideration.

I.

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.”

According to Events, the case was transmitted to the Appeals Board on January 17, 2025, and 60 days from the date of transmission is March 18, 2025. This decision is issued by or on March 18, 2025, so that we have timely acted on the petition as required by Labor Code section 5909(a).

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.

According to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on January 17, 2025, and the case was transmitted to the Appeals Board on January 17, 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 January 17, 2025.

Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER
CONCURRING NOT SIGNING

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 18, 2025

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

**JIAN KALLASH
JONATHAN RING
MORGAN & LEAHY LLP**

LN/md



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

**REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION**

EXPEDITED HEARING DETERMINATION

Workers' Compensation Administrative Law Judge: Alicia D. Hawthorne

Counsel:

Petition for Reconsideration Filed By: Defendant, Macy's psi administered by Sedgwick Claims Management Services

Attorney for Petitioner: Morgan Leahy; Kari Lucas, Esq.

Attorney for Applicant: Jonathan Ring, Esq.

INTRODUCTION

Defendant, Macy's, psi, administered by Sedgwick Claims Management Services, has filed a timely, verified, petition for reconsideration, on the standard statutory grounds, from the trial court's December 20, 2024, Findings and Award, pleading that:

1. The evidence does not justify the Findings of Fact;
2. The Findings of Fact do not support the Order, Decision or Award;
3. By the Decision and Award, the Board acted without or in excess of its powers.

Specifically, defendant contends that this WCJ's Findings and Award as it pertains to the UR denial and the finding of the medical treatment to be reasonable and necessary such that the Award is not justified by the Findings of Fact.

FACTUAL BACKGROUND

Applicant, Jian Kallash, born [], while employed on April 6, 2019, as a Sales/Customer Service Associate at National City, California, by Macy's West Stores, Inc., sustained injury arising out of and in the course of employment to the lumbar spine as it pertains to the current dispute.

At the time of injury, the employer was permissibly self-insured.

Applicant's secondary treater, Dr. Abitbol, submitted an RFA dated March 18, 2024. Defendant untimely issued a UR denying such requests for treatment such that the parties proceeded to trial from an Expedited hearing on such issue of treatment.

The undersigned issued a Findings and Award/Opinion on Decision on December 20, 2024. Defendant filed a Petition for Reconsideration, but labeled such Petition in EAMS as a proof of service. (EAMS DOC ID NO. 55758851) Erroneously filed pleadings fail to generate a task alerting the WCJ to take action; however, a courtesy copy was filed at the District Office and is addressed below.

DISCUSSION

Defendant contends that the WCJ erred in granting the requested treatment arguing this WCJ failed to reference any MTUS provision or supporting evidence-based medical or scientific guideline in support of the award of the requested treatment over the utilization review non-certification and failed to show the MTUS or evidence-based medical and/or scientific guidelines were rebutted by substantial medical evidence. Defendant references both Dubon and Sandhagen noting that even if the UR was untimely, the applicant still has the burden to establish that the requested treatment is reasonable and necessary at the time it was requested. This WCJ agrees both cases stand for this proposition. However, defendant further references the panel decision of *Thompson v. County of L.A.* (2016 Cal.Wrk.Comp. P.D. Lexis 107) and *Rios v. S. San Francisco Unified Sch. Dist.* (2021 Cal.Wrk.Comp. P.D. Lexis 15). In *Thompson*, the applicant was not entitled to the requested lumbar surgery because the requesting physician failed to reference either MTUS or other evidence-based guides to support the treatment modality. That case refers to a physician failing to justify the request, not the WCJ. Currently, what defendant has not shown is that the WCJ must specifically reference the MTUS guidelines, ACOEM guidelines or any other evidence-based treatment guidelines to substantiate the requested treatment. In fact, in reviewing the findings of the untimely UR denial, such denial itself failed to state or reference any MTUS updates or ACOEM guidelines in which they based their denial. The untimely UR denial only states that,

“The records did not document failure of non-operative measures for the claimant. No formal physical therapy records for the claimant were included for review detailing response and lack of progress with treatment. No recent medications for pain or injections were detailed. Further, review of the lumbar imaging report did not detail evidence of any spondylolisthesis with motion segment instability at L5-S1 measuring 5mm or more. The current evidence-based guidelines do not recommend lumbar spine fusion to address lumbar spondylosis or radiculopathy only.”

There is no mention of the MTUS guidelines or ACOEM guidelines or a reference to any other evidence-based guidelines to explain the denial. Records presented to the WCJ to review in assessing the reasonableness and necessity of the treatment were not sent to UR. It was this lack of the medical evidence provided to the UR department that created the original denial. Had the adjuster been forthcoming with the complete medical file, UR may not have denied the necessary treatment. Furthermore, as previously stated in the Opinion on Decision, the evidence clearly established that applicant had exhausted all conservative treatment and the EMG and MRI studies revealed positive findings. (Court Exhibit JJ) The medical evidence, taken as a whole, between the multiple treaters and the QME establishes the medical necessity of the requested surgery.

The undersigned will not reiterate and dictate all the medical evidence presented at trial that clearly establishes the medical necessity of the treatment requested by Dr. Abitbol.

However, what this WCJ will state is that at the time of the original Expedited Hearing, neither party presented any evidence of the complete medical history of the applicant up and through the time of the RFA, which was the exact reason why the UR department originally denied the RFA. The matter had to be vacated and the record needed to be developed. Both parties had the obligation to submit a complete and comprehensive record to ensure proper administration of this claim. (See *Dorman v. WCAB*, 78 Cal.App.3d 1009)

RECOMMENDATION

Based on the record itself, the Finding and Award and Opinion on Decision, and this Report and Recommendation, it is respectfully recommended that defendant's Petition for Reconsideration be denied.

DATE: January 17, 2025

Alicia D. Hawthorne
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

OPINION ON DECISION

FACTUAL BACKGROUND

Applicant, Jian Kallash[], while employed on April 6, 2019, as a Sales/Customer Service Associate at National City, California, by Macy's West Stores, Inc., sustained injury arising out of and in the course of employment to the lumbar spine as it pertains to the relevant current dispute.

At the time of injury, the employer's workers' compensation carrier was permissibly self-insured.

NEED FOR FURTHER MEDICAL TREATMENT

Applicant contends that she is entitled to further medical treatment in the form of an anterior lumbar interbody fusion L5-S1 as requested by the treating physician, Dr. Jean-Jacque Abitbol. Furthermore, applicant contends that there is an untimely UR from the submission of the RFA. Applicant further contends that the treatment is reasonable and necessary to cure or relieve the effects of the accepted industrial injury.

Defendant argues that even if the UR is untimely, applicant has failed to establish the treatment is reasonable or necessary and has failed to show the treatment falls within the presumptively correct MTUS, or that this burden has been rebutted by a preponderance of the medical evidence.

The evidentiary record in this matter consists solely of documentation in the form of medical records, UR correspondence, and letters from Sedgwick. The parties submitted this matter on the record and were given an opportunity to file post-trial briefs, which both parties have submitted.

Applicant has submitted the reports dated March 6, 2024 and RFA dated March 18, 2024, from Dr. Abitbol. (Applicant's Exhibit 1) In such report, Dr. Abitbol indicates applicant presents with complaints of constant, moderate to severe diffuse burning low back pain with pain and numbness radiating in the bilateral lower extremities and feet, right greater than left, exacerbated by all activities of daily living. (Applicant's Exhibit 1, page 1) Dr. Abitbol notes that since the prior visit, there has been a significant decrease in the range of motion and increase of neurological deficits observed upon physical examination. Dr. Abitbol performed a lumbar spine examination noting applicant's actual range of motion and what a normal range of motion should be for the lumbar spine. He reported applicant's palpation, which ranged from moderate to tender. He performed a lower extremity neurologic examination on the applicant noting areas which were not normal. Dr. Abitbol reported decreased sensory from L4-S2 on the right side. He noted applicant's inability to toe or heel walk. He noted issues with her straight leg raises. Dr. Abitbol reviewed diagnostic imaging in the form of applicant's lumbar spine MRI dated 9/2/2021, EMG studies from 9/8/2021, and another lumbar MRI dated 8/23/2023. Dr. Abitbol indicated applicant was last seen on 9/21/2023 and noted she

was reporting back with complaints of constant, moderate to severe diffuse burning low back pain with pain and numbness radiating into the bilateral lower extremities and feet. He noted the significant decrease in the range of motion and increase of neurological deficits. He reported she has tried and failed extensive conservative treatment and wants to now proceed with surgery. He reported that based upon ACOEM, MTUS and ODG guidelines, she is a candidate for the proposed procedure. In addition to the narrative report, Dr. Abitbol submitted an RFA for pre-operative clearance, lumbar brace, post op pt, post op medication, bone growth stimulator, front wheel walker, 3 in 1 commode, shower chair, cold compression therapy, and intermittent limb compression device dated March 8, 2024. (Applicant's Exhibit 2)

Defendant issued a UR denial to Dr. Abitbol dated April 1, 2024, noting that they first received the request on March 18, 2024. (Applicant's Exhibit 3, page 1) All requests on the RFA were denied. Attached to the denial was the required Application for IMR review as well as the data reviewed and contact information for the peer reviewer. It is noted that the parties entered into evidence Joint Exhibit 101, which is a duplicate of Applicant's Exhibit 3, with the only difference being a copy of the envelope from Sedgwick date stamped April 3, 2024. A review of the denial from UR indicates that the documentation submitted for review consisted of the referral from Sedgwick, the MRI of the lumbar spine dated 8/23/2023, the RFA from Dr. Abitbol, the intake form from secondary treater, Dr. Abitbol's office, and the progress note of Dr. Abitbol dated 3/6/2024, as well as a stat report MRI of the cervical spine dated 5/8/2020.

The basis of the denial states that the records did not document failure of non-operative measures for the claimant. It indicates no formal physical therapy records for the claimant were included for review detailing response and lack of progress with treatment. No recent medications for pain or injections were detailed, and a review of the lumbar imaging report did not detail evidence of any spondylosthesis with motion segment instability at L5-S1 measuring 5 mm or more.

Applicant submitted the reporting of the panel QME, Dr. James Esch. (Applicant's Exhibits 4-6) In Dr. Esch's first report, dated December 2, 2020, he noted applicant complained of pain in the low back and left buttock that had become worse since the injury. (Applicant's Exhibit 4, page 3) A complete physical examination was performed of applicant's lumbar spine wherein it is noted there was moderate pain associated with motion and with tenderness. Dr. Esch was also given 83 pages of medical records of the applicant to review; something the UR reviewer was not given. Under preliminary diagnoses, it is noted applicant was status post lumbar disc surgery, 2013, with left radiculopathy, possibly aggravated. (Applicant's Exhibit 4, page 12) He noted that at the time of the examination, applicant reported pain in the low back radiating to the left buttock. Applicant had a previous injury to the lower back that was functioning well until the current injury that caused an increase in pain in the lumbar spine and left buttock. He noted she had significant difficulty with certain activities of daily living. This report is almost 4 years old. Dr. Esch noted what additional studies he needed as well as the incomplete medical file he was provided, such that supplemental reporting issued on December 7, 2021. (Applicant's Exhibit 5) Dr. Esch reviewed the MRI of the

lumbar spine dated September 2, 2021, noting multilevel degenerative changes at the lumbar spine, most pronounced at L-S1, with severe right lateral recess narrowing, likely causing impingement of the right descending S1 nerve root and moderate right neuroforaminal stenosis. At the time of this supplemental reporting, Dr. Esch found the applicant permanent and stationary for her lumbar spine, noting further medical care for such body part. (Applicant's Exhibit 5, page 22) Applicant attended a re-evaluation with Dr. Esch on April 24, 2024. (Applicant's Exhibit 6) In such reporting, Dr. Esch was given 390 additional pages of medical records. Throughout such record review, Dr. Esch noted multiple visits with physical therapists. However, it is unclear from the records as to which body parts applicant received such treatment. Repeatedly, throughout such review, applicant is to continue with massage therapy as well as her home exercise program. It is noted that the record review of Dr. Thomas Harris' report dated on April 6, 2021, indicated applicant suffers from radiculopathy of applicant's lumbar spine, possibility of industrially aggravated. (Applicant's Exhibit 6, page 18) After this date and throughout the record review, there are clear indications of continued strengthening exercises and home exercises. In addition, there is a review of records from Dr. David Kupfer, who indicated issues with applicant's lumbar spine and physical therapy/home therapy program, at least from August of 2023. Again, in this final report from Dr. Esch, applicant had lumbar disc disease with verifiable radiculopathy, limited motion and left L5 radiculopathy. (Applicant's Exhibit 6, page 22) Dr. Esch indicated future medical care for the applicant to her lumbar spine, including transforaminal epidural steroid injections, and, if the injections are not helpful, she may be a candidate for lumbar disc surgery as noted in his prior reporting.

Defendant submitted the MRI report from Grossmont Imaging, dated August 23, 2023, however, such report was also attached to the reporting of the QME, Dr. Esch. (Defendant's Exhibit A)

A review of the records indicates that there was an untimely UR from defendant for the requested services of Dr. Abitbol on his RFA dated March 18, 2024. It appears from defendant's trial brief that they do not dispute the UR was untimely. However, they do correctly argue that even if the UR is untimely, it does not automatically equate to the treatment being authorized.

As determined in *Dubon v. World Restoration, Inc.*, (2104) 79 Cal.Comp.Cases 1298 (Appeals Board en banc) (Dubon II), if a UR denial is untimely, the determination of medical necessity of the disputed medical treatment may be made by the WCAB based on substantial medical evidence consistent with section 4604.5. (See also *State Compensation Ins. Fund v. Workers' Compensation Appeals Bd. (Sandhagen)* (2008) 44 Cal.4th 230, 240-241 [73 Cal.Comp.Cases 981].) In the present case, there is no timely UR denial. Therefore, the Board has jurisdiction to determine the medical necessity of the request of the lumbar surgery in the form of a fusion along with the requested additional treatment delineated in the RFA dated March 18, 2024, from Dr. Abitbol.

A decision regarding the medical necessity of the treatment request must be supported by substantial evidence in light of the entire record. (*Dubon II, supra*; *Lamb v. Workers' Comp. Appeals Bd.* (1974) 11 Cal. 3d 274 [113 Cal. Rptr. 162, 520 P.2d 978, 39 Cal.Comp.Cases 310]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal. 3d 627 [83 Cal. Rptr. 208, 463 P.2d 432, 35 Cal.Comp.Cases 16].) The Appeals Board has stated, "a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620-621 [Appeals Board en banc].)

Title 8 CCR §9792.9.1(g) states "Whenever a reviewer issues a decision to deny a request for authorization based on the lack of medical information necessary to make a determination, the claims administrator's file must document the attempt by the claims administrator or reviewer to obtain the necessary medical information from the physician either by facsimile, mail, or e-mail." (See *McKinney v. Enterprise Rent-A-Car*, 2016 Cal. Wrk. Comp. PD Lexis 495)

Title 8 CCR §9792.6.1(t) (2) states that an RFA is "Completed," for the purpose of this section and for purposes of investigations and penalties, means that the request for authorization must identify both the employee and the provider, identify with specificity a recommended treatment or treatments, and be accompanied by documentation substantiating the need for the requested treatment."

In the case at hand, there does not appear to be any evidence presented showing that the claims administrator has made any effort to obtain the necessary medical information from the physician to be given to the reviewer to evaluate the necessity of the treatment requested by Dr. Abitbol.

The current matter was Ordered Vacated for the undersigned to obtain the complete medical records from applicant's treating physician to review to make a determination regarding the necessity of the treatment requested by Dr. Abitbol. Court Exhibits AA-EEE were then submitted into evidence.

It is noted that the basis of the denial of medical treatment is based on the misperception that applicant had not yet exhausted conservative treatment. A review of the Court's exhibits shows that applicant did actively participate in therapy without significant improvement (only 18% noted on one visit). (Court Exhibit AA) Applicant began to treat with Dr. Abitbol starting on April 12, 2023. Applicant did present to Dr. Abitbol as a secondary treater for his back. He saw Dr. Abitbol for the first time on April 12, 2023. Applicant noted low back pain with radiating numbness stemming from this date of injury. The EMG and MRI studies revealed positive findings. (Court Exhibit JJ) Dr. Abitbol noted in his report that the QME recommended possible surgical intervention to the low back. (Court Exhibit BB) At the next appointment, Dr. Abitbol next saw the applicant on September 21, 2023 wherein he reviewed the objective testing performed. (Court Exhibit CC) Dr. Abitbol reported applicant was complaining of constant,

moderate diffuse low back pain radiating into the right lower extremity and into the foot. Due to the positive findings on the MRI and EMG studies, Dr. Abitbol discussed surgery in the form of an anterior lumbar discectomy and fusion at L5-S1.

When the applicant presented to Dr. Abitbol on March 6, 2024, Dr. Abitbol reported, “Compared to the previous office visit, there has been a significant decrease in the range of motion and increase of neurological deficits observed upon physical examination. The patient has tried and failed extensive conservative treatment and would like to now proceed with surgical intervention.” (Court Exhibit DD, page 1)

It should be noted that the therapy notes presented into evidence indicate an attempt of therapy notes for 3 months approximately one year before the examination on March 6, 2024. In addition, Dr. Abitbol is clear that the applicant presented with deteriorating symptoms; activities of daily living were severely affected at that time. Applicant had failed extensive conservative treatment to date and did exhibit lower extremity radiculopathy in a dermatomal distribution consistent with the finding of the lumbar MRI. (Court Exhibit DD, page 4) This report is almost one year from the first time applicant presented to Dr. Abitbol. The next time applicant presented to Dr. Abitbol, applicant was complaining of constant, moderate to severe diffuse burning low back pain with numbness radiating into the bilateral lower extremities and feet, right greater than left, exacerbated by all activities of daily living. In addition, the applicant was now complaining of moderate diffuse neck pain with numbness and tingling into the bilateral upper extremities. (Court Exhibit EE, page 1) Due to applicant’s complaints, Dr. Abitbol requested a second opinion for the surgery with another spinal surgeon, Dr. Hall. In May of 2024, Dr. Abitbol issued another report indicating there is no change in applicant’s condition, the second opinion and massage therapy had been authorized and the applicant was to return in six weeks. (Court Exhibit FF)

MRI’s of the applicant’s left and right knee as well as the cervical spine were performed on January 27, 2024. (Court Exhibits GG, HH and II) The neck MRI did show abnormalities. Dr. Lane is the secondary treater for applicant’s knees and performed injections (Court Exhibits KK-PP) In addition, applicant continued to present to Dr. Kupfer as her primary treating physician who assisted in getting treatment for her knees.

Dr. Kupfer noted as far back as September of 2023 that applicant remained symptomatic in her low back. (Court Exhibit RR) Dr. Kupfer reported applicant continued to be symptomatic in her low back in November of 2023. (Court Exhibit SS) At such time, Dr. Kupfer reported that applicant was still considering the lumbar surgery, but was not ready to proceed, and she was to return to Dr. Abitbol if she decided to proceed with this treatment option. (Court Exhibit SS, page 5) This remained the applicant’s status in November of 2023, but she was also focused on her knee treatment in November and December of 2023. In January of 2024, applicant is noted to have ongoing cervical and lumbar spine pain that continued to worsen causing stiffness and weakness. (Court Exhibit WW) By February of 2024, applicant is noted that the massage therapy was effective in relieving the severity of her neck and low back pain and additional massage

therapy was requested. (Court Exhibit XX) Applicant was also informed to return to Dr. Abitbol for follow up on her lumbar spine. By the end of February of 2024, applicant was scheduled for a surgical consult with Dr. Abitbol for March regarding the recommended lumbar fusion. (Court Exhibit YY, page 4) On March 5, 2024, Dr. Kupfer documented that applicant was experiencing progressive worsening of low back pain that has greatly inhibited her ability to tolerate normal ADL's. (Court Exhibit ZZ)

By March of 2024, applicant had presented to the spinal surgeon, Dr. Abitbol for approximately 11 months with no improvement to her low back symptoms. The medical evidence suggests that applicant had gone through physical therapy as well as massage therapy with no relief. In fact, it is clear that her symptoms were getting progressively worse and clearly affecting her ability to perform her activities of daily living. Dr. Kupfer reported that applicant was eager to proceed with the lumbar surgery as her symptoms only continued to progress. (Court Exhibit XX, page 5) Dr. Kupfer noted in his March 5, 2024, report that Dr. Abitbol had seen the applicant and he also found a material change and worsening of the applicant's condition warranting an anterior lumbar interbody fusion at L5-S1, which Dr. Abitbol did request. (Court Exhibit ZZ, page 5) Throughout the reporting in April of 2024, applicant's condition did not change and Dr. Kupfer noted she was awaiting authorization of the lumbar surgery. By May of 2024, Dr. Kupfer noted that the surgery was denied. (Court Exhibit DDD, page 5) The last report of Dr. Kupfer submitted as Court Exhibit EEE indicates the applicant saw Dr. Hall as a second opinion and noted that applicant's condition is not improving.

The reporting of Dr. Kupfer, Dr. Esch, and Dr. Abitbol are found all to be substantial medical evidence and this WCJ gives great weight to their findings. Based on the reporting from applicant's PTP, who clearly indicates that her low back is affecting her activities of daily living, the reporting from Dr. Abitbol, the spinal surgeon, as well as the QME, Dr. Esch, it is clear that applicant's treatment of conservative care is ineffective to cure or relieve the effects of the industrial injury. Applicant has participated in conservative care and exhausted such option for her lumbar spine. Therefore, this WCJ now finds that applicant is entitled to further medical treatment in the form of an anterior lumbar interbody fusion L5-S1 as requested by the treating physician Dr. Abitbol and all other treatment delineated on his RFA dated March 18, 2024. This WCJ finds this treatment to be reasonable and necessary and should be authorized and scheduled as quickly as possible.

DATE: December 20, 2024

Alicia Hawthorne
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

