WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

JAIME ORTIZ, *Applicant*

vs.

CITY AUTO BODY; STATE COMPENSATION INSURANCE FUND, *Defendants*

Adjudication Number: ADJ9313543; ADJ3093632
Van Nuys District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration[1] in this matter to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration. Having completed our review, we now issue our Decision After Reconsideration.

Lien claimants Reinherz Chiropractic, Tariq Mirza, M.D., and Mario Corzo Interpreting jointly seek reconsideration of the March 4, 2021 Joint Findings of Fact and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as an auto body worker from February 8, 2005 to May 12, 2005, sustained industrial injury to his bilateral knees and right shoulder. The WCJ also found that applicant, while employed as an auto body worker on May 5, 2005, sustained industrial injury to his left knee. The WCJ allowed the lien of Dr. Reinherz in an amount corresponding to 24 chiropractic visits prior to applicant's June 1, 2006 surgery, if provided, and an additional 24 chiropractic visits after the June 1, 2006 surgery, if provided, at applicable rates pursuant to the Official Medical Fee Schedule (OMFS), plus statutory increase and interest. The WCJ disallowed the lien of Dr. Mirza based on a lack of evidence that the services provided were medically necessary and that the corresponding charges were reasonable. The WCJ also disallowed the lien of Corzo Interpreting, finding no evidence that the interpreter was certified or provisionally certified.

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[1] Commissioner Lowe, who was previously a member of this panel, no longer serves on the Workers' Compensation Appeals Board. Another panelist has been appointed in her place.

Lien claimants contend that each body part injured would warrant a minimum of 24 visits for therapy, and that the limitations set forth in Labor Code[2] section 4604.5(c)(3) are arbitrary; that Dr. Mirza's treatment was reasonable and necessary because Dr. Mirza provided diagnostic testing at Dr. Reinherz's request; and that the WCJ applied an incorrect legal standard in determining that the interpreter needed to be certified or provisionally certified to be reimbursable.

We have not received an answer from any party. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will affirm the F&O, except that we will amend it to defer the issue of the lien of Mario Corzo Interpreting and return this matter to the trial level for further proceedings.

FACTS

Applicant has filed two applications for adjudication. In Case No. ADJ9313543, applicant sustained injury to his bilateral knees and right shoulder while employed as an auto body worker by defendant City Auto Body from February 8, 2005 to May 12, 2005. In Case No. ADJ3093632, applicant sustained injury to his left knee while similarly employed by defendant City Auto Body on May 5, 2005. Both cases were resolved by Compromise and Release approved on February 18, 2014.

These supplemental proceedings involve lien claimants Ira Reinherz, D.C., and Reinherz Chiropractic, Inc., Tariq Mirza, M.D., and Mario Corzo Interpreting.

On January 28, 2021, the parties proceeded to lien trial and placed in issue the liens of Dr. Reinherz, Dr. Mirza, and Mario Corzo Interpreting. (Minutes of Hearing (Minutes), dated January 28, 2021, at p. 2:20.) The parties also framed related issues of, in relevant part, the reasonableness and necessity of treatment, liability for services, value of services, the "24-visit cap," and defendant's assertions that the interpreters were not certified. (*Id.* at p. 3:6.) The WCJ ordered the matter submitted for decision on February 18, 2021.

On March 4, 2021, the WCJ issued his F&O. Therein, the WCJ allowed the lien of Reinherz Chiropractic in an amount corresponding to 24 chiropractic visits prior to applicant's June 1, 2006

[2] All further references are to the Labor Code unless otherwise noted.

surgery, and an additional 24 visits thereafter. (Order, No. "A".) The WCJ further determined that Dr. Mirza had not met the evidentiary burden of establishing that the provided services were medically reasonable and necessary, and disallowed the lien. (Order, No. "B".) The WCJ also found no evidence that interpreter Mr. Corzo was certified or provisionally certified to act as an interpreter and thus disallowed the interpreting lien. (Order, No. "C".)

Lien claimants' joint Petition avers that notwithstanding the 24-visits maximum allowed under section 4604.5(c)(3), applicant in this instance "complained of injury to both knees," and that "[a]t the very least, each knee should have been entitled to further treatment, in excess of the 24-visit cap." (Petition, at p. 4:1.) Petitioner avers that applicant's June 1, 2006 surgery provided an exception to the 24-visit cap, and that applicant continued to experience ongoing knee pain after the surgery. (*Id.* at p. 4:14.) With regard to the lien of Dr. Mirza, petitioners aver that the diagnostic testing performed by Dr. Mirza was requested by treating physician Dr. Reinherz, and that the referral from a treating physician is a sufficient basis upon which to determine that the services provided were reasonable and necessary. (*Id.* at p. 5:9.) With regard to the lien of Mario Corzo Interpreting, petitioners contends that the certification requirements referenced by the WCJ in the Opinion on Decision went into effect in 2013, after Mr. Corzo provided interpreting services in the instant matter in 2006. (*Id.* at p. 6:3.)

DISCUSSION

Petitioners challenge the WCJ's allowance of the lien of Reinherz Chiropractic in an amount corresponding to a maximum of 48 chiropractic visits. Petitioners aver that notwithstanding the limits set forth in section 4604.5(c), the nature of applicant's ongoing complaints supports the award of additional reimbursement. (Petition, at p. 3:7.)

Subdivision (c) of section 4604.5 provides, in relevant part:

> (1) Notwithstanding the medical treatment utilization schedule, for injuries occurring on and after January 1, 2004, an employee shall be entitled to no more than 24 chiropractic, 24 occupational therapy, and 24 physical therapy visits per industrial injury.
>
> (2)
>
> (A) Paragraph (1) shall not apply when an employer authorizes, in writing, additional visits to a health care practitioner for physical medicine services. Payment or authorization for treatment beyond the limits set forth

> in paragraph (1) shall not be deemed a waiver of the limits set forth by paragraph (1) with respect to future requests for authorization.
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> (B) The Legislature finds and declares that the amendments made to subparagraph (A) by the act adding this subparagraph are declaratory of existing law.
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> (3) Paragraph (1) shall not apply to visits for postsurgical physical medicine and postsurgical rehabilitation services provided in compliance with a postsurgical treatment utilization schedule established by the administrative director pursuant to Section 5307.27.

(Lab. Code, § 4604.5(c).)

Here, the WCJ has applied the statutory limit of 24 visits in the first instance and made additional allowance for post-surgical therapeutic intervention pursuant to section 4604.5(c)(3). Petitioners respond that "[i]t would be entirely proper to reimburse Dr. Reinherz for all dates of service up until the knees were replaced and the problem that the applicant complained of resolved." (Petition, at p. 4:3.)

However, Petitioners offer no persuasive legal argument as to why the WCJ's application of section 4604.5 was in error. While Petitioners contend that the therapeutic allowances otherwise afforded under section 4604.5 are insufficient in light of the factual circumstances of this case, Petitioners offer no legal challenge to the validity or applicability of section 4604.5 in the first instance. Moreover, the WCJ has observed that the record lacks substantive evidence pertaining to a second knee surgery as alleged by petitioners. Accordingly, and in the absence of a colorable legal challenge to the application of section 4604.5 to the facts of this case, we decline to disturb the WCJ's decision with respect to the lien of Reinherz Chiropractic.

Petitioners next contend the WCJ erred in disallowing the lien of Dr. Mirza for diagnostic testing in the form of EMG and NCV studies. (Petition, at p. 5:9.) Petitioners aver that "the presence in the record of Dr. Mirza's EMG study, NCV results and subsequent prescription should be sufficient to establish that Dr. Mirza acted on a referral from applicant's primary treating physician." (Petition, at p. 5:15.) However, the WCJ's Opinion on Decision observes that pursuant to section 4604.5(a), "[t]he recommended guidelines set forth in the medical treatment utilization schedule [MTUS] adopted by the administrative director pursuant to Section 5307.27 shall be presumptively correct on the issue of extent and scope of medical treatment." (Lab. Code, §§ 4604.5(a).) While the presumptions are specifically rebuttable, the burden of establishing variance

from the MTUS requires "a preponderance of the scientific medical evidence establishing that a variance from the guidelines reasonably is required to cure or relieve the injured worker from the effects of his or her injury." (*Ibid*.)

Here, the WCJ has determined that lien claimant did not carry its burden of establishing that the diagnostic studies provided by Dr. Mirza were medically necessary under the presumptively correct MTUS. (Opinion on Decision, at p. 5.) Moreover, lien claimant has not established through a preponderance of scientific medical evidence that a variance from the MTUS was reasonably required to cure or relieve from applicant's industrial injuries. (Lab. Code, § 4604.5(a).) Because the Petition offers no new legal or factual basis for a finding of medical necessity pursuant to section 4604.5, we decline to disturb the WCJ's regarding the lien of Dr. Mirza.

Finally, Petitioners challenge the WCJ's application of the "Interpreter Services Regulations" to determine that Mr. Corzo was not regularly or provisionally certified at the time the interpreting services were rendered, and that Mr. Corzo's lien is "not enforceable" as a result. (Petition at p. 5:23; Order No. "C".)

Subdivision (g) of section 4600 as applicable in 2006 when Mr. Corzo provided the interpreting services required that the interpreter be "qualified," defining the term as "a language interpreter certified, or deemed certified, pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code." (Lab. Code, § 4600(f) (2006 version).)

We previously addressed the issue of interpreter services in connection with medical treatment in *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 243 (Appeals Bd. en banc),[3] wherein we held that in order "to recover its charges for interpreter services, the interpreter lien claimant has the burden of proving, among other things, that the services it provided were reasonably required, that the services were actually provided, that the interpreter was qualified to provide the services, and that the fees charged were reasonable." (*Id.* at p. 243.) With respect to the issue of certification, we observed the following:

[3] En banc decisions of the Worker's Compensation Appeals Board are binding precedent on all Appeals Board panels and WCJs. (Cal. Code Regs., tit. 8, § 10325(a); *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 313, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Board* (2002) 96 Cal.App.4th 1418, 1425, fn. 6 [67 Cal.Comp.Cases 236]; see also Govt. Code, § 11425.60(b).)

> An interpreter lien claimant must also prove that the interpreter was qualified to provide the billed services. (Lab. Code, § 5705; *Capi, supra*, 138 Cal.App.4th 373 [71 Cal. Comp. Cases 374]; *Stokes v. Patton State Hospital* (2007) 72 Cal. Comp. Cases 996 (Significant Panel Decision).) Pursuant to AD Rule 9795.3(a), a "qualified interpreter" may provide services for a medical examination requested by the claims administrator, AD, or appeals board, or at a comprehensive medical-legal evaluation. A "qualified interpreter" means a "certified" or "provisionally certified" interpreter pursuant to AD Rule 9795.1(f) (Cal. Code Regs., tit. 8, § 9795.1(f)), or, for purposes of section 4600, a "qualified interpreter" means an interpreter certified or deemed certified pursuant to the Government Code.
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> When the setting is not "an appeals board hearing, arbitration, or formal rehabilitation conference," and when a certified interpreter cannot be present, a "provisionally certified" interpreter is one deemed qualified to perform interpreting services by agreement of the parties. (Cal. Code Regs., tit. 8, § 9795.1(e).) Thus, for a medical examination, a provisionally certified interpreter is one deemed qualified by agreement of the parties, when a certified interpreter is unavailable. While a treatment appointment is not strictly governed by these provisions, we see no logical reason why the qualifications for an interpreter at a treatment appointment should be any different or less rigorous than the qualifications for an interpreter at a medical examination. If certified interpreters are difficult to obtain, as stated by E&M, agreement by the parties is unquestionably the best option for obtaining a "provisionally certified" and, therefore, "qualified" interpreter.
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> Government Code section 11435.55 suggests another option. It provides that, when a certified interpreter cannot be present at a medical examination, "the physician provisionally may use another interpreter if that fact is noted in the record of the medical evaluation." While agreement between the parties is preferred, a non-certified interpreter lien claimant seeking payment for services performed during medical treatment could show that it was selected "provisionally," under Government Code section 11435.55, if use of the non-certified interpreter is recorded by the physician.
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> Thus, in the absence of any directly applicable authority on qualifications for interpreters during medical treatment, an interpreter may be qualified to interpret at medical treatment appointments because he or she is certified for interpreting at medical examinations or deemed certified for medical examinations by virtue of being certified for court or administrative hearing interpreting, or, if a certified interpreter is unavailable, the interpreter is provisionally certified by agreement of the parties or selected for provisional use by the treating physician.

(*Id.* at pp. 246-247.)

Here, the WCJ has determined that "there is no evidence that Mr. Corzo was certified or provisionally certified … [p]rovisionally certified means an interpreter otherwise qualified to

perform interpreter services does so when a certified interpreter cannot be present or by agreement of the parties." (Opinion on Decision, at p. 6.) However, it is not clear from this record whether the WCJ fully applied the analysis described in *Guitron, supra*, including a determination of whether Mr. Corzo was provisionally certified, i.e., "certified for interpreting at medical examinations or deemed certified for medical examinations by virtue of being certified for court or administrative hearing interpreting, or, if a certified interpreter is unavailable, the interpreter is provisionally certified by agreement of the parties or selected for provisional use by the treating physician." (*Guitron, supra*, at p. 247.)

Accordingly, we will amend the F&A to defer the issue of the lien of Corzo Interpreting and return this matter to the trial level for further proceedings. Upon return of this matter, we encourage the parties to seek amicable resolution of the interpreting lien in the first instance. However, should the parties be unable to resolve the interpreting lien, the WCJ must address the issue of certification and provisional certification in conformity with the analysis set forth in *Guitron, supra,* 76 Cal.Comp.Cases 228.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the March 4, 2021 Joint Findings of Fact and Order is **AFFIRMED**, except that it is **AMENDED** as follows:

FINDINGS OF FACT

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5. The issue of whether Mr. Mario Corzo was certified or provisionally certified to provide interpreting services is deferred.

ORDER

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C. The lien of Mario A. Corzo Interpreting is deferred.

IT IS FURTHER ORDERED that this matter is **RETURNED** to the trial level for such further proceedings and decisions by the WCJ as may be required, consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 24, 2025

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

REINHERZ CHIROPRACTIC, INC.
TARIQ MIRZA, M.D.
MARIO CORZO INTERPRETING
ABRAHAM & ISAAC, INC.
STATE COMPENSATION INSURANCE FUND

SAR/abs

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