



A LIMITED LIABILITY CORPORATION

LIEN TRAINING

2021



DISCLAIMER

THE INFORMATION IN THIS TRAINING PRESENTATION WAS COMPILED FOR EDUCATIONAL PURPOSES ONLY. IT IS INTENDED TO PROVIDE YOU WITH GENERAL INFORMATION AND A GENERAL UNDERSTANDING OF THE AUTHORITIES MENTIONED.

DATA HAS BEEN PULLED FROM OUR (AM LIEN SOLUTIONS) OWN INTERNAL DATABASE AS WELL AS THE DEPARTMENT OF INDUSTRIAL RELATIONS AND OTHER CITED SOURCES.

EXAMPLES GIVEN ARE SUGGESTIONS ONLY AND SHOULD NOT BE RELIED UPON AS LEGAL ADVICE.

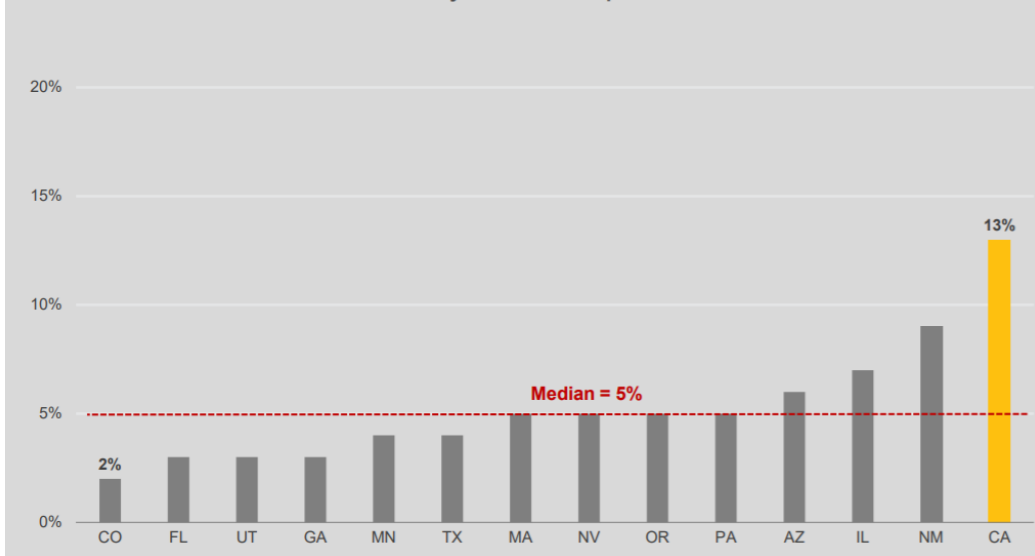
AGENDA

- Future of liens – data from the WCIRB
- Resolving Liens in 2021
 - Lien Litigation (COVID-19 Appearance Rules)
 - Legacy Liens
 - Liens with Threshold Issues
 - SBR/IBR Liens???????
 - Petitions for Non-IBR Determination
- Conclusion

WCIRB'S 2020 STATE OF THE SYSTEM REPORT

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Chart 39: Percent of Indemnity Claims Open at 60 Months



Source -

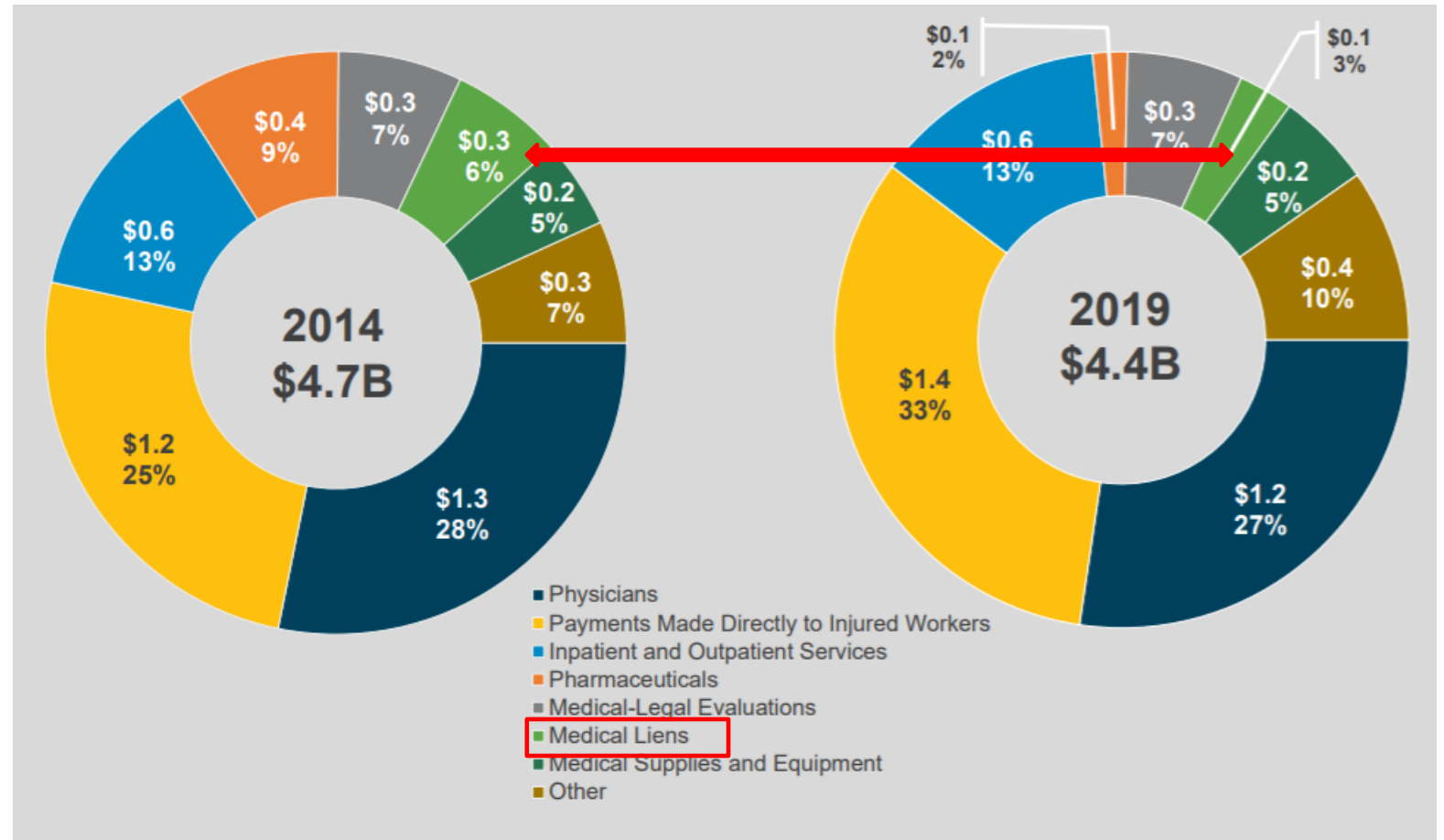
https://www.wcirb.com/sites/default/files/documents/2020_state_of_the_system_report-ar.pdf

- The WCIRB stated “since 2012, indemnity claims closed more quickly, in part attributable to SB 863 provisions related to liens, IMR, independent bill review, reduced opioid use and a reduced number of spinal surgeries.”
- Liens have decreased, however the number of “California indemnity claims open at 60 months is almost three times the median state, despite a recent acceleration in claim closure rates” This is in part to the high volume of liens filed.

WCIRB LIEN REPORTING

- According to the WCIRB the share of payments for medical liens decreased significantly over the last five years.
- “The shares of medical costs in other categories remained relatively consistent over the last five years.”

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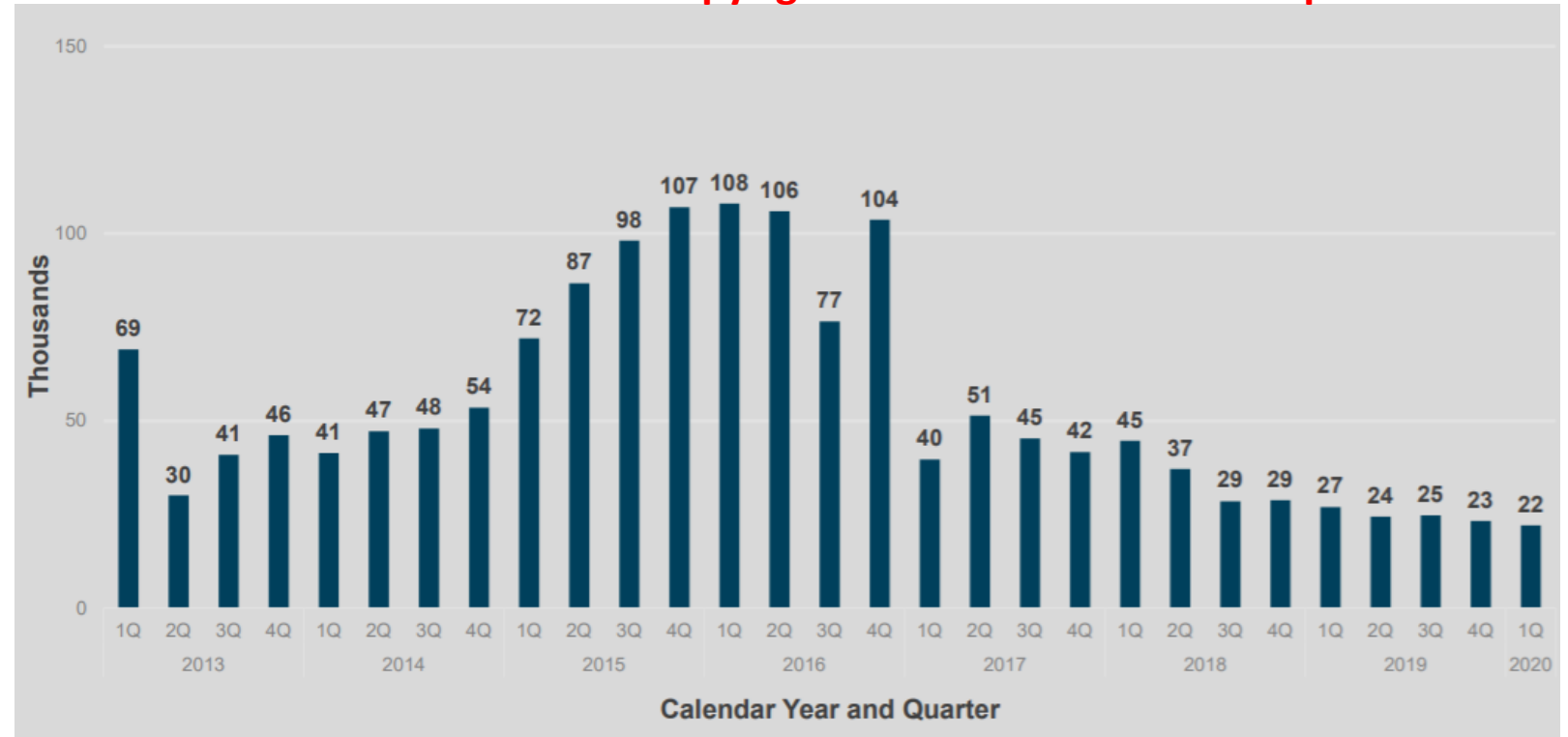


Source: https://www.wcirb.com/sites/default/files/documents/2020_state_of_the_system_report-ar.pdf page 23

WCIRB LIEN REPORTING - JULY 14, 2020

- The WCIRB released their **2020 State of the System report**

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Lien filings continued to decrease into 2020

Source - https://www.wcirb.com/sites/default/files/documents/2020_state_of_the_system_report-ar.pdf page 60



**LIEN FILINGS PER
QUARTER ARE DOWN
70% AND ARE AT A
HISTORICAL LOW!**

Evaluation of current liens based on AM Lien Solutions Data

We utilized data from our proprietary lien software to complete the following slide

AM LIEN SOLUTIONS DATA – LIENS FILED 10/01/2019 – 9/31/2020 TYPES OF LIENS

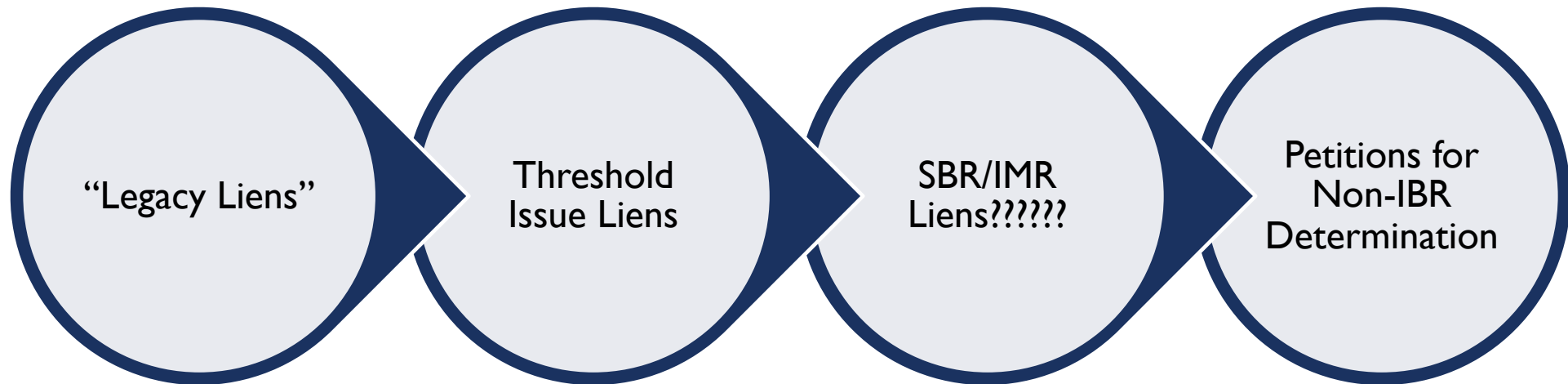
- Fee Disputes / Balance Billing
 - Physician Services
- Copy Service Petitions for Non-IBR Determinations
- Large Hospital Liens
- Health Plans

Type of Lien	Number of Liens	Sum of Balance	% of Balance
Physician Services	348	\$4,482,803.80	28%
Interpreting	135	\$580,053.98	4%
Therapy	121	\$895,544.45	6%
Copy Service	118	\$224,804.04	1%
Medication	103	\$1,664,862.71	10%
DME	95	\$606,021.52	4%
Radiology	76	\$401,993.54	3%
Outpatient Surgery Center	43	\$587,184.75	4%
Health Plan	35	\$2,637,516.95	16%
Psych	34	\$340,273.05	2%
Diagnostic	34	\$247,901.11	2%
EDD	23	\$556,344.87	3%
Hospital	20	\$2,456,956.08	15%
Laboratory	18	\$142,486.66	1%
Sleep	11	\$66,438.28	0%
Dental	8	\$127,927.72	1%
Transportation	6	\$11,287.67	0%
Pharmacy	1	\$10,373.79	0%
Grand Total	1229	\$16,040,774.97	

Top lien claimants/petitioners of 2020 = Med Legal Photocopy, Edwin Haronian Encino, Anthem Blue Cross, Socal Imaging, Jonathan Kohan MD, Matrix Document Imaging Service, and Spine and Ortho CTR Santa Barbara

FUTURE OF LIENS

- According to the WCIRB 38%* of open indemnity claims closed within 12 months in 2019. This was the highest rate of claim closing since the mid 1990s.
- 2021 AM Lien Solutions lien categories:



*https://www.wcirb.com/sites/default/files/documents/2020_state_of_the_system_report-ar.pdf p. 51



LIEN LITIGATION

COVID-19 ADJUSTMENTS

LIEN LITIGATION – COVID-19 ADJUSTMENTS

- Lien Conferences automatically rescheduled March – June 8th.
- Lien Trials automatically rescheduled March – September 14th.
- Lien Conferences are being heard, telephonically
 - Three Lien Conferences per judge per session
 - individually assigned judges' conference lines
- Lien Trials can be conducted through LifeSize virtual courtroom, judge will provide link to the parties
- DIR court calendar can be accessed online, updated daily
 - <https://www.dir.ca.gov/DWC/CourtCalendar/CourtCal.asp>

DWC JUDGE CONFERENCE LINES

Last Name	First Name	Toll Free	Access Code	Last Name	First Name	Toll Free	Access Code	Last Name	First Name	Toll Free	Access Code
ALDRICH	ARIEL	(866) 434-5269	6684936	CRAWFORD	SCOTT	(866) 590-5055	2951357	HJELLE	ROBERT	(877) 411-9748	3266259
ARENDT	MARIBETH	(866) 390-1828	9800539	CRYMES	STUART	(877) 336-1831	3613938	HOLMES	KATHARINE	(888) 363-4735	1070112
ASHTON	STEFANIE	(888) 636-3807	8606968	CYPRIEN	JOHN	(877) 336-1839	9791975	HOVAKIMIAN	SIMON	(888) 251-2909	7940303
ASLANIAN	KARINNEH	(888) 204-5984	1039641	DASILVA	THERESE	(877) 810-9415	2220617	HUGHES	TRACY	(866) 590-5055	2108745
ATCHERLEY	LINDA	(877) 336-1828	4075342	DEVINE	LYNN	(888) 273-3658	1303740	HURSH	RANDAL	(877) 336-1831	4261809
BANCROFT	DIANE	(877) 336-1829	4775146	DEWEESE	PAUL	(888) 557-8511	3412517	JACKSON	ELENA	(877) 336-1839	8584690
BANKS	SUZANNE	(877) 873-8017	3606847	DIAMOND	JEFFREY	(888) 278-0296	5725935	JOHNSON	DON	(877) 402-9757	8864313
BARBOSA	PENNY	(877) 402-9753	1161696	DICOSMO	WADE	(877) 336-1828	4954896	JONES	YVONNE	(888) 273-3658	1322510
BATHER	HELEN	(888) 363-4734	5103740	DOBRIN	DANIEL	(877) 336-1829	7036093	JUSTICE	MICHAEL	(866) 390-1828	6234134
BENTLEY	CHARLES	(888) 398-2342	5822441	DOWNEY	JAY	(877) 873-8017	8941114	KALOPE-BERSIN	JENNIFER	(877) 336-1839	6311187
BERNAL	SHARON	(866) 434-5269	8775071	DOYLE	SALLIE	(888) 398-2342	5400996	KAO	TIFFANY	(877) 810-9415	3906678
BEWICK	JOSEPH	(888) 636-3807	1082775	DURR	JOHN	(888) 278-0296	6417222	KEATING	KACEY	(888) 363-4735	2191769
BORIOLO	KATIE	(877) 336-1829	6105094	EATON	JODY	(888) 636-3807	2316726	KLIPFEL	JARED	(866) 590-5055	3841628
BORSKA	ELLIOT	(877) 402-9753	6219651	EDELBERG	BONITA	(877) 402-9753	7673600	KOSTA	DARCY	(877) 336-1831	6712860
BRENNEN	RICHARD	(888) 363-4735	6046700	FAMIGLIETTI	MARCO	(888) 363-4734	8501860	LALLANA	ISABEL	(877) 873-8017	8236001
BRITT	AMY	(866) 434-5269	6584600	FEDDERSEN	CLINT	(888) 278-0296	1525408	LAM	GENE	(888) 363-4735	3191401
BROTMAN	DAVID	(877) 336-1828	4765991	FENG	JULIE	(888) 204-5984	2967218	LAUERMAN	DAVE	(888) 808-6929	9952936
BROWN	CHRISTOPHER	(877) 873-8017	3838013	FRIEDMAN	JEFFREY	(877) 336-1829	9517860	LECOVER	MICHAEL	(866) 590-5055	5185401
BROWN	ROBIN	(877) 402-9757	2591130	FUDEM	MARK	(877) 402-9757	9960382	LEDGER	ERIC	(877) 848-7030	4234118
BRUFLAT	JEFFREY	(888) 398-2342	9808973	GAINES	MARTHA	(888) 808-6929	6783068	LEE	GENE	(877) 873-8017	2574716
BUSHIN	MITCHELL	(866) 434-5269	3894851	GELLER	MICHAEL	(866) 434-5269	4394582	LEE	TANYA	(888) 557-8511	8547058
CARBONE	STEVEN	(877) 336-1828	3110353	GLASS	CRAIG	(877) 336-1831	5995905	LEHMER	FRANCIE	(888) 251-2909	5968089
CARERO	WILLIAM	(877) 810-9415	7382390	GOGERMAN	EUGENE	(877) 411-9748	7371912	LEMBERG	HOWARD	(888) 636-3807	9612340
CASEY	COLLEEN	(888) 557-8511	2762420	GORDON	NANCY	(877) 402-9753	7285634	LEVITON	ROBIN	(877) 848-7030	6321318
CATHEY	OLIVER	(888) 251-2909	3758306	GORDON	TERRI ELLEN	(888) 398-2342	3897650	LEVY	CLIFFORD	(877) 411-9748	6282613
CERVANTES	JUAN	(888) 636-3807	4046138	GRAPER	SANDRA	(866) 590-5055	7976792	LUSK	JEREMY	(888) 273-3658	3027947
CHRISTIANO	PETER	(877) 336-1831	6521396	GREENBERG	MICHAEL	(877) 336-1828	1923054	MADSEN	JANE	(888) 278-0296	1732959
CLEVELAND	GREGORY	(877) 810-9415	4690975	GRIFFIN	JIM	(877) 810-9415	8294781	MARRONE	JEFFREY	(888) 636-3807	4254604
CLIFFT	JEREMY	(877) 402-9757	7396279	GUNN	WILLIAM	(888) 398-2342	5346089	MARSHALL	DEWAYNE	(877) 848-7030	9336219
COANE	JOANNE	(888) 363-4735	1517088	HALPRIN	NATE	(888) 808-6929	9419329	MARSTAINER	DIANA	(877) 873-8017	5161916
COHEN	JERILYN	(866) 434-5269	2334511	HARTER	JOEL	(866) 590-5055	5247228	MAUPIN	THOMAS	(877) 402-9757	3816428
COLE	MICHAEL	(877) 336-1828	2354185	HAWTHORNE	ALICIA	(877) 336-1829	4591252	MAYS	ROBERT	(888) 273-3658	3483022
CORSO	ANTHONY	(877) 336-1839	6521397	HINK	PETER	(877) 336-1831	5698176	MENEFEE	TERRY	(877) 402-9757	9256818
COUTTS	CATHERINE	(888) 363-4734	3442970								

DWC JUDGE CONFERENCE LINES

Last Name	First Name	Toll Free	Access Code
MI	IVY	(888) 808-6929	4652553
MILLER	CHRISTOPHER	(866) 390-1828	4057745
MORGAN	JEFFREY	(877) 848-7030	2590005
NACHISON	DANIEL	(877) 411-9748	2945004
NAKATANI	BEN	(888) 204-5984	7407568
NELSON	TIMOTHY	(888) 363-4734	6619299
NORTON	ROBERT	(888) 808-6929	7343911
ODOR	ASHLEY	(888) 204-5984	3732266
OESTERREICH	LORI	(877) 848-7030	1212649
ORTEGA	KATHLEEN	(888) 557-8511	5032846
OWENSBY	LOIS	(888) 251-2909	4354744
PADILLA	ADORALIDA	(866) 390-1828	9176899
PALMBERG	GREGORY	(877) 848-7030	6376843
PETTY	MYRLE	(877) 411-9748	5927071
PHILLIPS	DIANE	(888) 363-4734	5776405
POLLAK	DAVID	(888) 398-2342	1107157
PULLEY	PAMELA	(866) 390-1828	7115332
PUSEY	ROBERT	(877) 336-1828	7768949
QUIEL	CYNTHIA	(877) 336-1839	9324369
RASMUSSEN	SHILOH	(888) 557-8511	2003058
RASSP	ROBERT	(888) 273-3658	5275637
RENY	GEORGE	(866) 390-1828	6356356
REYES	MONIKA	(877) 336-1828	3396299
RILEY	ROISILIN	(877) 873-8017	1778692
ROMANO	MARK	(888) 363-4735	1147294
ROSE	CIRINA	(866) 390-1828	7224258
ROSENFELD	SANDRA	(888) 204-5984	9900534
RUEDAFLORES	TOMMY	(877) 336-1839	7748014
RUSSELL	TOM	(877) 402-9753	9341687
SANDOVAL	DEBRA	(888) 363-4734	8599634
SANFORD	TIM	(888) 398-2342	7702846
SCHAUMBERG	JASON	(866) 434-5269	2023283
SCHULTZ	BOLYNDA	(866) 390-1828	4609819
SCOTT	ANGELIQUE	(888) 204-5984	8826869

Last Name	First Name	Toll Free	Access Code
SEIDEN	SCOTT	(888) 204-5984	2150124
SEYMOUR	DAVID	(877) 810-9415	7502698
SHIELDS	STANLEY	(888) 557-8511	5052297
SHORENSTEIN	ANDREW	(888) 251-2909	2690651
SIMS	GEOFFREY	(866) 590-5055	3965140
SIQUEIROS	JOHN	(877) 336-1831	3354888
SKELLY	ALAN	(877) 411-9748	4556718
SMITH	TERRY	(888) 273-3658	3968297
SOMMER	ROBERT	(888) 808-6929	7516362
SPITZER	JAMIE	(888) 636-3807	9877466
SPOERI	ROBERT	(877) 336-1839	4037196
STONE	PAMELLA	(877) 402-9753	4735600
STRINGFELLOW	DEAN	(888) 273-3658	3140122
SUH	PAULINE	(888) 278-0296	9560753
SULPRIZIO	MARY	(888) 204-5984	1181943
SUSSMAN	LISA	(888) 278-0296	5875053
SWANSON	CURT	(877) 336-1829	3647259
SZELENYI	LILLA	(877) 402-9757	2876220
TEMPKIN	NOAH	(888) 363-4734	9855612
THOMPSON	MARYANNE	(888) 278-0296	7765898
THORNE	DAVID	(888) 204-5984	4682925
TOLMAN	ROGER	(877) 336-1829	5784173
TUAN	STEVEN	(877) 402-9753	4816282
UTTER	MICHELLE	(888) 251-2909	2577788
VELZY	SHARON	(866) 434-5269	7454697
WALKER	JACQUELINE	(877) 336-1831	9572396
WARD	JEFFREY	(877) 411-9748	1650407
WATKINS	DOUGLAS	(888) 363-4735	6153629
WHITCOMB	DEBORAH	(888) 251-2909	8296766
WICKLER	ROBERT	(888) 278-0296	8673324
WILKENS	PETER	(866) 590-5055	1658480
WILLIAMSON	BERNIE	(888) 636-3807	3310998
WILLMON	CHRIS	(877) 336-1831	5837788
WILSON	JEFFREY	(877) 848-7030	6121430

Last Name	First Name	Toll Free	Access Code
YEE	ERIC	(877) 336-1829	7361845
YOUNG	MICHAEL	(877) 336-1839	5402915
ZAMUDIO	RALPH	(877) 873-8017	3113787
ZERBONI	JAMES	(877) 810-9415	8657545
ZINNER	MARILEN	(877) 411-9748	8873974

LIEN LITIGATION – COVID-19 UPDATED EN BANC DECISIONS

EN BANC – NO 5. & EN BANC – NO 6.

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

IN RE: COVID-19 STATE OF EMERGENCY

EN BANC – NO. 5

Case No. MISC. NO. 264

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

IN RE: COVID-19 STATE OF EMERGENCY

EN BANC – NO. 6

Case No. MISC. NO. 265

- **EN BANC – No 5.** - The Appeals Board rescinded its suspension of WCAB Rules 10755, 10756 and 10888 effective 10/27/2020
 - As of 10/27/2020 Notices of Intent to Dismiss Lien Claimant for Failure to Appear can be requested / Orders of Dismissal Granted if objection not received timely.
- **EN BANC – No 6.** - The Appeals Board rescinded its suspension of WCAB Rules 10620 and 10670(b)(3):
 - As of 12/1/20, we are required to file all trial documents within 20 days of the trial date.

LIEN LITIGATION – COVID-19 DELAYS

- **New Lien Conferences are being set March-May 2021:**
 - VNO, OXN, and LAO are being set as late as May 2021
- **Existing Lien Conferences/Trials rescheduled at random:**
 - Rescheduled Lien Conferences/Trials are being moved to as late as August 2021
 - Lien Conferences/Trials are being rescheduled up to the day before the hearing
- LBO, MDR, and LAO advised they are continuing Lien Conferences/Trials to Oxnard if EDD is not an issue
- OXN is rescheduling Lien Conferences/Trials to June-August 2021

% OF LIEN LITIGATION AT WCAB AS OF 1/25/2021

WCAB Location	Expedited Hearing	Lien Conference	Lien Trial	MSC	Priority Conference	Ratings MSC	Status Conference	Trial	Grand Total	Total Lien Hearings	% of Lien Appearances
Anaheim	47	122	20	264	36	4	228	111	832	142	17%
Bakersfield	12	18	3	98	5	1	48	24	209	21	10%
Chico	7								7	0	0%
Eureka	1	2		18	1		17	1	40	2	5%
Fresno	52	19	1	305	10	4	126	38	555	20	4%
Goleta	14	3		41	4		23	16	101	3	3%
Long Beach	53	128	21	355	28		384	91	1060	149	14%
Los Angeles	68	290	33	593	71	2	361	310	1728	323	19%
Marina del Rey	45	416	31	771	74	2	536	274	2149	447	21%
Oakland	88	39	3	331	23	12	204	74	774	42	5%
Oxnard	20	156	59	111	13	1	57	14	431	215	50%
Pomona	40	172	23	262	33	6	209	128	873	195	22%
Redding	4	4		35	2	1	24	7	77	4	5%
Riverside	68	48	29	149	19	6	116	78	513	77	15%
Sacramento	23	17	1	172	10	11	76	33	343	18	5%
Salinas	17	18	2	138			79	37	291	20	7%
San Bernardino	26	48	5	151	15	10	88	44	387	53	14%
San Diego	74	55	26	348	40	6	158	112	819	81	10%
San Francisco	32	23	1	173	13	2	161	41	446	24	5%
San Jose	16	20	7	216	9		74	36	378	27	7%
San Luis Obispo	1	4		32	3		26	20	86	4	5%
Santa Ana	58	162	36	337	82	5	286	144	1110	198	18%
Santa Rosa	12	5		60	3	1	40	8	129	5	4%
Stockton	65	12		254	14	5	89	42	481	12	2%
Ukiah	2			1			3		6	0	0%
Van Nuys	212	258	64	549	129	3	374	208	1797	322	18%
Grand Total	1057	2039	365	5764	637	82	3787	1891	15622	2404	15%

- Liens account for 15% of the current WCAB calendar
- Lien Trials are only 2%
- Data based off 14-day public calendar posted on the DIR website

LIEN LITIGATION – TIPS FOR EFFICIENT LITIGATION



- Preparation is key!
 - Utilize the [WCAB Court Calendar](#) to confirm your Lien Conference is one of the “three per session”
 - Contact all parties and confirm telephonic appearance
 - Confirm all parties received discovery
 - Come to an agreed upon disposition
 - OTOC
 - Continuance
 - Set for Lien Trial
 - Pre-fill the PTCS via email with all parties included
 - Most Lien Trials are being continued



Outweigh the cost of continued delays in litigation vs resolving the lien



Lien Trials can be complex and will be difficult to complete in the current format

LIEN LITIGATION – COST BENEFIT ANALYSIS

LIEN RESOLUTION TIPS

**COVID-19 has
created a new
environment**

**Lien Claimants
have more
time**

**Reasonable
negotiations
have increased**



“LEGACY LIENS”

LIENS THAT JUST WON'T RESOLVE

LIEN RESOLUTION TIPS – FATAL FLAWS

FRAUD

- SB 1160 STAYS ANY LIEN UPON THE FILING OF CRIMINAL CHARGES
- SB 1160 ALLOWS FOR SUSPENSION OF FRAUDLANT PROVIDERS FROM WVC SYSTEM
- **SUSPECTED FRAUD IS NOT THE SAME!**

DEFECTIVE LIEN FILING

- 4903.8 (d) – Party signs under penalty of perjury that services/products billed were actually provided and that the billing submitted is true and accurate
- 10550 (d) - Proper Identification of the Parties and Lien Claimants – Assignment should be disclosed and a copy of assignment filed
- 10770.5 – Verification to Filing Lien Claim
- 4903.05 (c) – For all liens filed on or after 1/1/17

STANDING

- 3rd Party without a valid Assignment – Provider of Service is not the Lien Claimant
- FTB Status Suspended – Can't collect from the date their Business License is suspended
- Licensing – They must have been licensed at time of service under their Professional Industry (Medical, Pharmacy, Laboratory, etc.)

LIEN RESOLUTION TIPS – FRAUD

Labor Code section 4615 places an automatic stay on liens filed by or on behalf of physicians and providers who are criminally charged with certain types of fraud. The automatic stay prevents those liens from being litigated or paid while the prosecution is pending. **Not all providers charged with fraud are marked 4615 in EAMS.**

Amir Friedman, 54, an anesthesiologist, of Calabasas, California, was charged for his alleged participation in a conspiracy to commit honest services mail and wire fraud and Travel Act violations involving approximately \$800,000 in kickbacks for compounded pharmaceutical drugs involving New Age Pharmaceuticals, Inc.

<https://www.justice.gov/opa/pr/charges-brought-against-34-individuals-alleged-west-coast-medicare-and-medicaid-fraud-schemes>

HE PLED GUILTY ON October 21, 2019 – STILL DOESN'T APPEAR ON 4615 LIST AS OF 11/18/2020

LIEN RESOLUTION TIPS – FRAUD

EAMS HAS NOT MARKED AMIR FRIEDMAN'S LIEN AS 4615 OR CONSOLIDATED

<i>Lien Filed</i> ⚙	<i>Injury</i> ⚙	<i>Next Hearing</i> ⚙	<i>Lien</i> ⚙	<i>Lien Fee</i> ⚙	<i>Lien Fee</i> ⚙	<i>Injured Worker</i> ⚙	<i>Lien Claimant</i> ▲	<i>DWC Proceeding</i>
<i>Date</i>	<i>Date</i>	<i>Date</i>	<i>Amount</i>	<i>Status</i> ⓘ	<i>Payment Date</i>	<i>Name</i>	<i>Name</i>	<i>Status</i> ⓘ
08/02/2016	09/18/2006		25044.98	PAID	08/02/2016	BEVERLY FUENTES	AMIR FRIEDMAN ENCINO	
10/19/2016	09/18/2006		8414.67	PAID	10/19/2016	BEVERLY FUENTES	AMIR FRIEDMAN ENCINO	

LIEN RESOLUTION TIPS – FRAUD

A quick google
search is all it
takes!

srtklaw.com › breaking-news-post › doctor-charged-in-... ▼

Doctor Charged in \$150 Million Healthcare Fraud Scheme ...

Oct 28, 2019 - **Amir Friedman's** plea agreement was accepted by the Centra District of ... on October 21, and will see him return for **sentencing** on April 6th.

www.beckersasc.com › anesthesia › anesthesiologist-ple... ▼

Anesthesiologist pleads guilty in connection to \$150M fraud ...

Oct 28, 2019 - **Amir Friedman**, MD, of Calabasas, Calif., **pleaded guilty** to one count of conspiracy to commit honest services mail fraud in the Central District of ...

www.workcompcentral.com › news › article ▼

Court Accepts Anesthesiologist's Guilty Plea in Alleged \$150M ...

Oct 28, 2019 - **Amir Friedman** **pleaded guilty** to one count of conspiracy to commit honest services mail fraud for his role in a part of the alleged scheme that ...

www.justice.gov › ... › Office of Public Affairs › News ▼

Charges Brought Against 34 Individuals for Alleged West Coast

Sep 18, 2019 - The case is being prosecuted by Trial Attorneys Emily Z. Culbertson and ... **Amir Friedman**, 54, an anesthesiologist, of Calabasas, California, ...

Missing: [plea](#) | Must include: [plea](#)

LIEN RESOLUTION TIPS – DEFECTIVE LIEN FILING CHECKLIST

- Notice and Allowance of Lien
- Original bills in addition to either full statement supporting the lien
- 4903.05(c) declaration
- 4903.8 (d) declaration
- 10550 (d) declaration – only if lien has been assigned
- 10770.5 declaration

Ways to get this information:

1. FileNet:
<https://eams.dwc.ca.gov/external/logon.jsp>
2. Ask the lien claimant prior to negotiating

KEY DECISION – 4903.8(D) LIEN DECLARATION

- Fernando Calderon, Applicant v. Matharu Assisted Living, State Compensation Insurance Fund, Defendants, 2019 [Petition for Writ of Review filed 10/25/2019]

“WCAB affirmed WCJ’s finding that lien claimant failed to timely file Labor Code § 4903.8(d) lien declaration and, therefore, was not entitled to recover on its 11/7/2012 lien, when lien claimant did not file declaration until 11/15/2017”

- Source: [Lexis Nexus](#)



LIENS WITH THRESHOLD ISSUES

RECENTLY FILED LIENS WHERE A VALID ISSUE ARISES, AND LIEN CLAIMANTS WON'T RESOLVE FOR A REASONABLE AMOUNT.



STATUTE OF LIMITATIONS

■ If lien filed > 1/1/13:

- If last DOS is before 7/1/13 they have 3 years from the DOS to file their lien.
- If last DOS is 7/1/13 or after they have 18 months from the DOS to file their lien.

If lien filed < 1/1/13:

- They have 5 years from DOI, 6 months from CIC settlement and 1 year from last DOS whichever comes last

ACCEPTED CLAIM (BODY PARTS)

- Proof of Date of Knowledge
- Acceptance Letter
- MPN Notice
- Time of hire
- Responses to PTP Designation Letters
- Attempts to redirect back into MPN
- UR Determinations
- Explanation of Reviews

DENIED CLAIM (BODY PARTS)

- Proof of Date of Knowledge
- Delay Letter
- MPN Notice (5402 c)
- Denial Letter
- Depositions
- Med-Legal reports that support your position

“APPLICANT WAIVES MED-LEGAL REPORT” SETTLEMENT CHECKLIST

- Review zero pay Explanation of Reviews and medicals and prepare a list of providers and attempt to resolve before settlement.

Example

- Date of Injury – 10/01/2019 & 06/01/2019 – 11/01/2019
- Date of Settlement – 10/01/2020
- Settlement Amount - \$10,000
- Settlement Comments – “There is a genuine dispute as to the issue of AOE/COE and applicant would not prevail at trial”
- Liens Filed at time of C&R – none
- Liens Filed Last Month:
 - FMR Interventional Quality - \$15,048.18
 - Joyce Altman Interpreters - \$9,990.00

RFA PART I

Requested Treatment (see instructions for guidance; attach additional pages if necessary)

List each specific requested medical services, goods, or items in the below space or indicate the specific page number(s) of the attached medical report on which the requested treatment can be found. Up to five (5) procedures may be entered; list additional requests on a separate sheet if the space below is insufficient.

Diagnosis	ICD-Code	Procedure Requested	CPT/HCPCS Code	Other Information: (Frequency, Duration, Quantity, Facility, etc.)
Unspecified hearing loss, bilateral	H91.93	Internal Medicine Evaluation		I am re-requesting authorization for an internal medicine consultation with Dr. Marvin Pietruszka, MD to treat the patient's onset of eyes and ears issues .
Other spondylosis, cervical region	M47.892	MRI		of the cervical spine
Other spondylosis, cervical region	M47.892	Pain Management-Follow-Up		with PTP Dr. Russman for the cervical spine
Other spondylosis, lumbar region	M47.896	MRI		of the lumbar spine
Cervicalgia	M54.2	FCE (Functional Capacity Evaluation)		I am re-requesting authorization for the patient to undergo a full functional capacity evaluation (FCE) in order to determine the patient's functional capabilities vs. limitations/restrictions of the cervical spine, lumbar spine, left shoulder, left wrist and hand. Per Chronic Pain Medical Treatment Guidelines (MTUS) (Effective July 18, 2009):

Diagnosis	ICD-Code	Procedure Requested	CPT/HCPCS Code	Other Information: (Frequency, Duration, Quantity, Facility, etc.)
Low back pain	M54.5	FCE (Functional Capacity Evaluation)		I am re-requesting authorization for the patient to undergo a full functional capacity evaluation (FCE) in order to determine the patient's functional capabilities vs. limitations/restrictions of the cervical spine, lumbar spine, left shoulder, left wrist and hand. Per Chronic Pain Medical Treatment Guidelines (MTUS) (Effective July 18, 2009):
Headache	R51	Urine Test		1. ACOEM,AMA,and ODG recommend periodic urinalysis as necessary to determine and monitor the patients current levels of prescription medication usage
Unspecified injury of right eye and orbit	S05.91	Internal Medicine Evaluation		I am re-requesting authorization for an internal medicine consultation with Dr. Marvin Pietruszka, MD to treat the patient's onset of eyes and ears issues .
Unspecified injury of left eye and orbit	S05.92	Internal Medicine Evaluation		I am re-requesting authorization for an internal medicine consultation with Dr. Marvin Pietruszka, MD to treat the patient's onset of eyes and ears issues .
Sprain of ligaments of cervical spine, subsequent encounter	S13.4xxD	Acupuncture		I am requesting authorization for acupuncture treatment, 2 times per week for 3 weeks, to address treatment to the cervical spine.
Sprain of ligaments of lumbar spine, subsequent encounter	S33.5xxD	Pain Management-Follow-Up		with PTP Dr. Russman for the lumbar spine
Strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, left arm, subsequent	S46.912D	FCE (Functional Capacity Evaluation)		I am re-requesting authorization for the patient to undergo a full functional capacity evaluation (FCE) in order to determine the patient's functional capabilities vs. limitations/restrictions of the cervical spine, lumbar spine, left shoulder, left wrist and hand. Per Chronic Pain Medical Treatment Guidelines (MTUS) (Effective July 18, 2009):
Strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, left arm, subsequent	S46.912D	MRI		of the left shoulder
Strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, left arm, subsequent	S46.912D	Pain Management-Follow-Up		with PTP Dr. Russman for the left shoulder
Unspecified sprain of left wrist, subsequent encounter	S63.502D	EMG/NCV B-UE		I am re-requesting authorization for an EMG/NCV studies of the bilateral upper extremities to be performed and for the report to be sent to my office as soon as possible.
Unspecified sprain of left wrist, subsequent encounter	S63.502D	FCE (Functional Capacity Evaluation)		I am re-requesting authorization for the patient to undergo a full functional capacity evaluation (FCE) in order to determine the patient's functional capabilities vs. limitations/restrictions of the cervical spine, lumbar spine, left shoulder, left wrist and hand. Per Chronic Pain Medical Treatment Guidelines (MTUS) (Effective July 18, 2009):
Unspecified sprain of left wrist, subsequent encounter	S63.502D	MRI		of the left wrist/hand
Unspecified sprain of left wrist, subsequent encounter	S63.502D	Physio Therapy		I am requesting authorization for physio therapy, 2 times per week for 3 weeks, to address treatment to the left wrist in the form of joint rehabilitation program.
Unspecified sprain of left	S63.502D	Pain		with PTP Dr. Russman for the left wrist/hand

APPLICANT WAIVES MED- LEGAL REPORT SETTLEMENT CHECKLIST

RFA PART 2

POTENTIAL FOR LARGE LIEN
EXPOSURE . LITIGATION LIEN
CLAIMANTS = EXPENSIVE
LITIGATION + COVID
LITIGATION DELAYS



SBR/IMR LIENS??????

RECENTLY FILED LIENS THAT WERE SUBJECT TO SBR/IBR, SO WHY DID THEY FILE A LIEN?

UTILIZATION REVIEW DOCUMENTATION

- Proof of when the RFA was submitted
- Communication with the provider during the UR process
- Copy of Initial Notification with proof of date received
- Copy of the UR Decision Letter
- Copy of the Proof of Service with date mailed out to all parties
- Any and all IMR determination letters
- PBM'S / MANAGED CARE PARTNERS AND UTILIZATION REVIEW – if you utilize any of these services the PTP must be informed at the onset of care that approved treatment must go through these services. This will aide in litigation of liens or applying pre-negotiated discounts if another provider was utilized by the PTP.

BILL REVIEW / IBR

Only applicable to paid dates of service with an adopted fee schedule (Copy Service post 7/1/2015 and Interpreting included)

- Original Explanation of Review
- Second Bill Review Requests
- Responses to Second Bill Review
- IBR Findings

EXPLANATION OF REVIEWS - LABOR CODE 4603.2. – EFFECTIVE 1/1/2017

- Payment “shall be made at reasonable maximum amounts in the official medical fee schedule, pursuant to Section 5307.1, in effect on the date of service.
- Payments shall be made by the employer with an explanation of review pursuant to Section 4603.3 within 45 days (60 days if government entity) after receipt of each separate itemization of medical services provided, together with any required reports and any written authorization for services that may have been received by the physician.
- IF YOU ARE NOT GOING TO PAY THE BILL - the physician shall be notified, in the explanation of review, that the itemization is contested, denied, or considered incomplete, within 30 days after receipt of the itemization by the employer.
- Sending timely compliant EOR's is critical in defending liens that are subject to SBR/IBR and protect you against any potential P&I allegations.

LABOR CODE 4603.3 - EFFECTIVE JANUARY 1, 2013 - REQUIREMENTS OF AN EXPLANATION OF REVIEW

- (a) Upon payment, adjustment, or denial of a complete or incomplete itemization of medical services, an employer shall provide an explanation of review in the manner prescribed by the administrative director that shall include all of the following:
 - (1) A statement of the items or procedures billed and the amounts requested by the provider to be paid.
 - (2) The amount paid.
 - (3) The basis for any adjustment, change, or denial of the item or procedure billed.
 - (4) The additional information required to make a decision for an incomplete itemization.
 - (5) If a denial of payment is for some reason other than a fee dispute, the reason for the denial.
 - (6) Information on whom to contact on behalf of the employer if a dispute arises over the payment of the billing. The explanation of review shall inform the medical provider of the time limit to raise any objection regarding the items or procedures paid or disputed and how to obtain an independent review of the medical bill pursuant to Section 4603.6 .
- (b) The administrative director may adopt regulations requiring the use of electronic explanations of review.

SECTION § 9792.5.5. SECOND REVIEW OF MEDICAL TREATMENT BILL OR MEDICAL-LEGAL BILL

- The provider must submit a Request for Second Bill Review within 90 days of the **Date of Service** of the Explanation of Review

Definition of Date of Service (depends on how the EOR was sent out)

- Date of Service = Proof of Service only IF a proof of service is sent with the EOR
- Date of Service = Receipt of EOR by provider only IF a proof of service is not sent with EOR AND Claims Administrator has proof of receipt.
- Date of Service = 5 days from mailing of the EOR only IF the EOR was sent by mail without a POS. **The Date of service would be (5) calendar days from USPS postmark stamped on the envelope in which the EOR was mailed.**
- Date of Service = Date of an order from WCAB resolving any threshold issues, if one exists
- SEE MEADOWBROOK INSURANCE COMPANY, Petitioner, v. WORKERS' COMPENSATION APPEALS BOARD and DFS INTERPRETING et al., Respondents

KEY DECISION – SBR/IBR

- MEADOWBROOK INSURANCE COMPANY, Petitioner, v. WORKERS' COMPENSATION APPEALS BOARD and DFS INTERPRETING et al., Respondents.

3RD DCA finds applicable Interpreter Fee Schedule and dismissed the lien of DFS Interpreting. DFS Interpreting sought payment from Meadowbrook Insurance Company. The carrier issued Explanations of Review with their payments. DFS objected to the Explanation of Reviews BUT failed to request a second bill review as required under Labor Code 4603.2(e)(2).

- Source: Justia.com

Importance of this decision

The California State Court is higher than the WCAB trial courts and higher than the Work Comp Appeals Board. A California State Court decision has greater weight than a Work Comp Appeals Board En Banc Decision. The California State Court's decision is now the law of the land and all lien claimants must comply with the SBR process.

KEY DECISION – MEADOWBROOK INSURANCE COMPANY, PETITIONER, V. WORKERS' COMPENSATION APPEALS BOARD AND DFS INTERPRETING ET AL., RESPONDENTS.

LABOR CODE 4603.2(E)(I).

“(e)(1) If the provider disputes the amount paid, the provider may request a second review within 90 days of service of the explanation of review or an order of the appeals board resolving the threshold issue as stated in the explanation of review pursuant to paragraph (5) of subdivision (a) of Section 4603.3. The request for a second review shall be submitted to the employer on a form prescribed by the administrative director and

KEY DECISION – ESTABLISHED INTERPRETING OMFS

- The MEADOWBROOK decision ALSO established that there is an "adopted" fee schedule for Interpreting Services:

This argument applies to all partially paid Interpreter liens; the fee schedule can be found under §9795.3.

§9795.3. Fees for Interpreter Services should be billed and paid at the following rates:

Legal Interpreting:

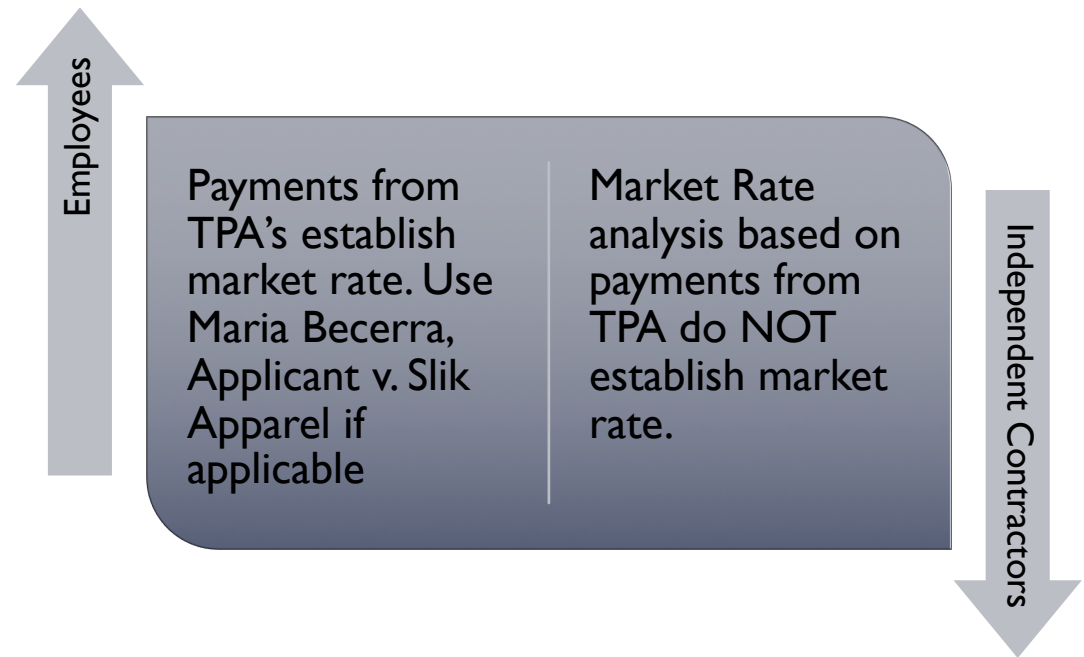
- (i) at the rate for one-half day or one full day as set forth in the Superior Court fee schedule for interpreters in the county where the service was provided, or
- (ii) (ii) at the market rate."

Medical Treatment:

\$11.25 per quarter hour or portion thereof, with a minimum payment of two hours, or the market rate, whichever is greater.

MARKET RATE FURTHER ANALYSIS

- Definition of “Market Rate” as defined in 8 CCR §9795.1:
- "Market rate" means that amount an **interpreter has actually been paid** for recent interpreter services provided in connection with the preparation and resolution of an employee's claim.



KEY DECISIONS – INTERPRETING MARKET RATE

- Maria Becerra, Applicant v. Slik Apparel, Employers Compensation Insurance Company, Defendants, 2019

“WCAB, rescinding WCJ’s decision, returned matter to trial level for further proceedings regarding market rate of lien claimant’s interpreting services as defined in 8 Cal. Code Reg. § 9795.1(e), when market rate evidence submitted by lien claimant at trial was insufficient to establish market rate because it only included information from accounts which were paid in full by defendants and none where lien claimant accepted less than full payment”

- Source: [Lexis Nexus](#)

LABOR CODES AND REGULATIONS – SBR/IBR PROCESS

- CA Labor Code 133
- CA Labor Code 4600
- CA Labor Code 4603.2
- CA Labor Code 4603.3
- CA Labor Code 4603.4
- CA Labor Code 4603.5
- CA Labor Code 5307.3
- Section § 9792.5.3 Medical Treatment Bill Payment Rules
- Section § 9792.5.5. Second Review of Medical Treatment Bill or Medical-Legal Bill



PETITION FOR NON-IBR DETERMINATIONS

COPY SERVICE / INTERPRETING / MEDICAL-LEGAL TREATMENT NOT SUBJECT TO SBR/IBR

MEDICAL LEGAL DISPUTE RESOLUTION PROCESS

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WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

Applicant, [REDACTED]

vs. [REDACTED]

Defendant [REDACTED]

Case No. [REDACTED]

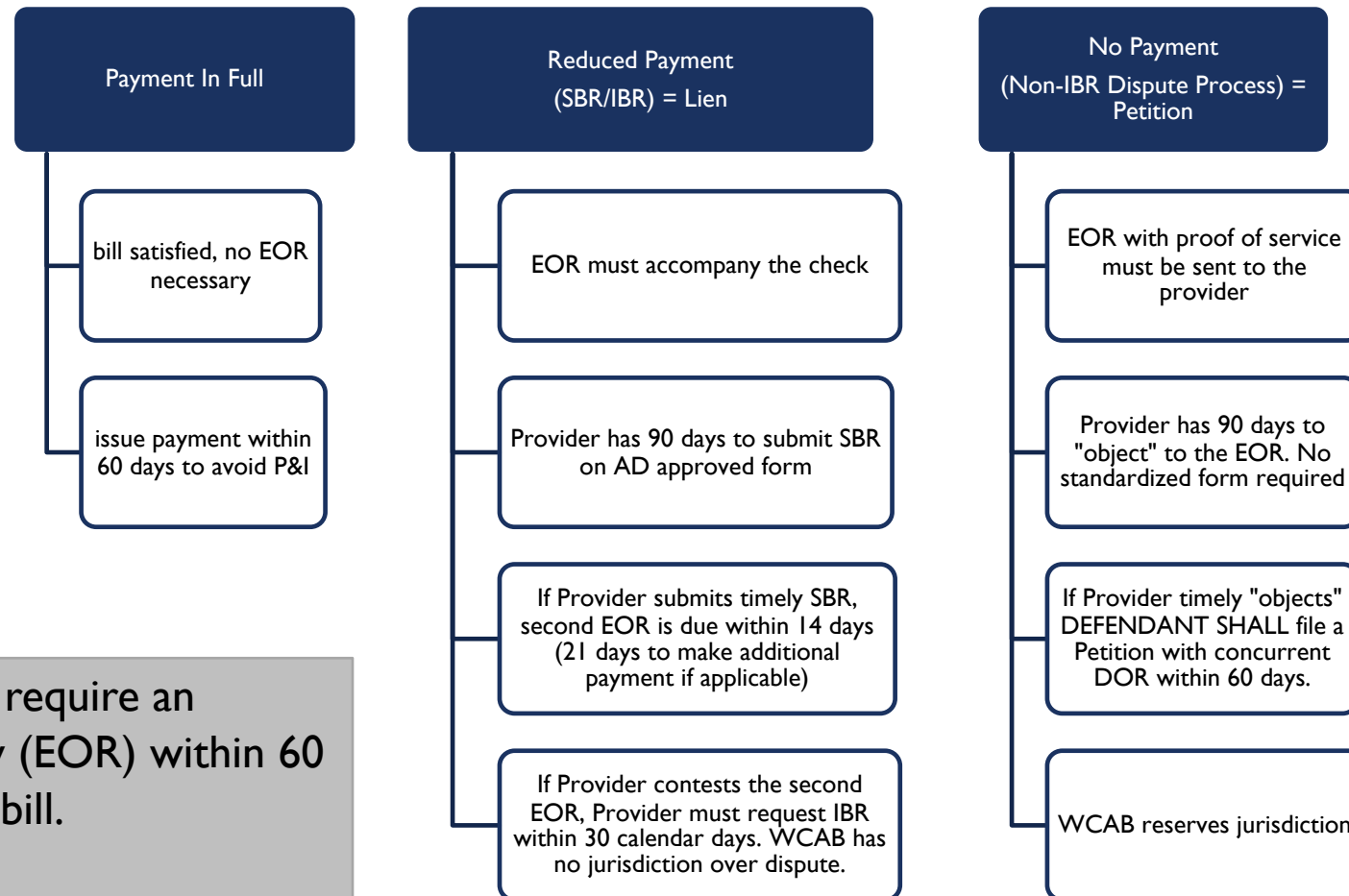
PETITION FOR DETERMINATION OF
NON-IBR MEDICAL-LEGAL DISPUTE
FILED BY [REDACTED]

- We tend to conflate “medlegal” with “non-IBR.”
- They are two separate processes.
- It diverges at the point of Defendant’s partial payment vs. nonpayment.

The first opportunity for objection to the petition is as to whether or not the Non-IBR petition is proper on grounds that, either, it is:

- 1) not based on medlegal services; or:
- 2) is based on a fee dispute, subject to SBR/IBR.

MEDICAL LEGAL DISPUTE RESOLUTION PROCESS



All Medical-Legal bills require an Explanation of Review (EOR) within 60 days of receipt of the bill.

MEDICAL LEGAL DISPUTE RESOLUTION PROCESS

Failure by provider to follow the timelines and form requirements deems the bill satisfied.

Failure by defendant to follow the timelines and for requirements opens them up to attorney fees, sanctions, and costly litigation.

LABOR CODES AND REGULATIONS

- CA Labor Code 4060
- CA Labor Code 4061
- CA Labor Code 4622 – Rules to follow when disputing payment (see flowchart) – failure to comply mandates 10% Penalty and 7% Interest
- CA Labor Code 4621 - Rules for first 60 days of a claim absent a denial notice
- § 10451.1 Determination of Medical-Legal Expense Disputes
- § 10451.1 (g) – Outlines potential liability for Costs and Fees

KEY DECISIONS – COPY SERVICE

- Colamonico v. Secure Transportation
- En banc decision
- It is the Lien Claimants/Petitioners burden to prove their services were reasonable AND necessary
- Defendants' failure to object to bill or send Explanation of Review NO longer waives all defenses
- Defendants can dispute the reasonableness or necessity of a medical-legal expense

We recommend following the dispute process in the previous section; however, this new decision does provide relief to defending against unreasonable services.

OBSTACLES TO FILE CLOSURE

Here are a few other challenges to closing lien files we encounter on a day-to-day basis:

- Delays due to COVID-19
- Volume of liens decreasing but complexity of liens filed increasing
- Litigious Collection Companies that work off a % instead of reason
- Statute of Limitation – Still a Triable issue
- Fee Schedule and IBR Issues
- Difficult WCAB Locations or Judges
- **Service of Discovery - Medical Provider vs Non-Medical**

CONCLUSION



QUESTIONS & THANK YOU



- If you have any questions, please feel free to contact:
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- Client Services Director
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