

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

WENDY KAYL.

Applicant.

vs.

**THE VITAMIN STORE; CHUBB GROUP OF
INSURANCE COMPANIES.**

Defendants.

**Case Nos. ADJ6854515; ADJ6854519
(Anaheim District Office)**

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

12 The 4600 Group on behalf of lien claimant Aetna-Traditional (LC) has filed a timely, verified
13 Petition for Removal, requesting that the Appeals Board reverse the Order Denying Production of
14 Medicals dated August 7, 2013, wherein the workers' compensation administrative law judge (WCJ)
15 denied The 4600 Group's Petition to Compel Service of Medical Legal Report. The 4600 Group
16 contends that “[i]n order to prosecute its claim and meet its burden of proof, lien claimant must be served
17 with copies of medical reports that bear on issues of compensability of applicant's claim and the
18 necessity of treatment” (page 2). We have not received an answer from any party.

19 Applicant, while employed as an administrative assistant, sustained industrial injuries to her neck
20 and shoulders on October 10, 2008, and to hypertension from 2007 through June 9, 2009. She settled her
21 cases by compromise and release (C&R) approved by Order Approving Compromise & Release dated
22 February 4, 2013. The C&R also refers to sleep, gastrointestinal, and neurological with reference to the
23 cumulative trauma claim. LC's claim for reimbursement remains unresolved.

24 Labor Code section 4903.6(d)¹ provides: "With the exception of a lien for services provided by a
25 physician . . . , no lien claimant shall be entitled to any medical information . . . about an injured worker

¹ Unless otherwise specified, all statutory references are to the Labor Code.

1 without prior written approval of the appeals board. Any order authorizing disclosure of medical
2 information to a lien claimant other than a physician shall specify the information to be provided to the
3 lien claimant and include a finding that such information is relevant to the proof of the matter for which
4 the information is sought."

5 Here, Aetna-Traditional stipulates that it is a health plan. Therefore, section 4903.6(d) applies
6 here. Applicant's case has been settled, and LC bears the burden of proof that applicant's injuries arose
7 out of and occurred in the course of her employment and that the medical services for which it has paid
8 on behalf of applicant were reasonably and necessarily required to cure or relieve from her injury. In
9 order to sustain this burden of proof, LC must have access to the medical reports and medical-legal
10 reports obtained by applicant and defendant in the course of litigation of this claim. Therefore, we
11 rescind the Order dated June 6, 2013, and we order defendant to serve The 4600 Group with copies of all
12 medical reports and all medical-legal reports obtained during the litigation of case numbers ADJ6854519
13 and ADJ6854515.

14 For the foregoing reasons,

15 **IT IS ORDERED** that the Petition for Removal filed by The 4600 Group on behalf of lien
16 claimant Actna-Traditional is **GRANTED**.

17 **IT IS FURTHER ORDERED**, as the Decision After Removal of the Workers' Compensation
18 Appeals Board, that the Order Denying Production of Medicals dated August 7, 2013, is **RESCINDED**.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 **IT IS FURTHER ORDERED** that defendant serve The 4600 Group forthwith with copies of
2 medical reports and medical-legal reports obtained during the litigation of case number ADJ6854519 and
3 ADJ6854515 which are potentially relevant to the issues of injury arising out of and occurring in the
4 course of employment and the reasonableness and necessity of medical treatment.

5

6 **WORKERS' COMPENSATION APPEALS BOARD**

7

8 

9 DEIDRA E. LOWE

10 I CONCUR,

11 

12 ALFONSO J. MORESI



18 DEIDRA E. LOWE

19 DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

20 OCT 11 2013

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

23 DEAN STRINGFELLOW
24 LEVITON, DIAZ & GINOCCHIO
25 THE 4600 GROUP

26 

27 MR/ara

KAYL, Wendy