

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

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MIGUEL SERRANO,

Applicant

vs.

ANAHEIM FOUNDRY,
self-insured,

Defendants.

Case Nos.
ANA 0208206
AHM 0012040

JOINT
FINDING AND ORDER

Kegel, Tobin & Truce, by Theodore C. Hanf,
attorneys for defendant.

Dan Frank, Representative for Lien Collections, Inc.,
lien claimant, Amerimed Corporation.

The issue of the lien(s) of Amerimed Corporation/Sand Point Medical Group having been submitted for decision, the Honorable JOHN FAULKNER, WORKERS' COMPENSATION JUDGE, now finds and orders as follows:

FINDING

I. The services rendered by Amerimed Corporation/Sand Point Medical Group, lien claimant, were not in connection with this injury.

ORDER

IT IS, THEREFORE, ORDERED that the lien(s) of Amerimed Corporation/Sand Point Medical Group be and it is hereby denied.

DATED AT ANAHEIM, CALIFORNIA
June 2, 1994


JOHN E. FAULKNER
WORKERS' COMPENSATION JUDGE

Served by mail on parties checked on the
Official Address Record effected on above date.
BY: L. B. Champion

A PETITION FOR RECONSIDERATION FROM THIS DECISION SHALL BE FILED ONLY
AT THE ANAHEIM DISTRICT OFFICE OF THE WORKERS' COMPENSATION APPEALS
BOARD.

**STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD****CASE NOS.**
ANA 0208206
AHM 0012040**MIGUEL SERRANO**

vs.

**ANAHEIM FOUNDRY,
self-insured,****WORKERS' COMPENSATION JUDGE:
JOHN E. FAULKNER****DATED: June 2, 1994****INJ: 8-28-87 to
8-88 (0208206)
8-30-88 (0012040)****OPINION ON DECISION**

These matters came on for hearing on June 11, 1993 on the issue of the liens of Amerimed Corporation/Sand Point Medical Group for both medical-legal expenses and self-procured treatment. The parties were given the opportunity to file written arguments and both have responded. As explained more fully below, all liens are denied in their entirety. This is based on a review of the files, as well as the written arguments presented.

Treatment - This was an accepted injury and defendants, as they state in their written argument, provided treatment by Dr. David L. Tsoong and Dr. Michael C. Luciano. They argue that the treatment rendered by lien claimant was "unauthorized and self-procured". While we are mindful of the applicant's right to select a treating physician 30 days after the date of injury as set forth in Labor Code Section 4600, Labor Code Section 4603.2 requires that "the employee or physician shall forthwith provide the employer of the name and address of the physician." This rule, if complied with at all, was not complied with until May 11, 1989, and then the "notification" was by service of a lien. The more explicit notice was not forwarded until February 17, 1993, several years after the treatment ceased, through the vehicle of the DECLARATION OF BILLING PRACTICE of that date. While it is sometimes possible that defendants

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put themselves in a position where they are estopped to deny payment by making payments when billed, failure to comply with Labor Code Section 4603.2 notwithstanding, such is not the case in these matters. There is no basis for ordering payment and payment of expenses for treatment is accordingly denied.

Medical-Legal Costs - Lien claimants represent in their billing that there were two "turries" of medical-legal evaluations; i.e. diagnostic procedures and report writing. The first of these occurred on or about February 3, 1989, representing their initial billing of \$930.00. The second occurred in the latter part of their billing between April 18, 1989 and July 11, 1989. Again diagnostic procedures were performed, records were reviewed and an evaluation and report issued. We take note that the record review occurred on April 18, 1989, one month before the evaluation and report occurred on May 17, 1989; the diagnostic procedures occurred between June 30, 1989 and July 11, 1989, 1-1/2 to 2 months after the evaluation and report. The billing for this period was \$2,575.00.

We are not convinced that the above charges are valid medical-legal charges. A medical-legal expense, as defined by Labor Code Section 4620, "means any costs and expenses incurred on behalf of any party,, for the purpose of proving or disproving a contested claim." We find nothing in the record to suggest that at the time these costs were generated any medical-legal issue existed. Implicit in the "legal" aspect of "medical-legal" is the presence of a legal issue. This in turn requires or at least pre-suppose that a disagreement exists between the applicant or in the case, as here, of a represented applicant, the applicant's attorney, and the workers' compensation carrier or their representative. No such evidence is presented in the record. In fact, given that the record contains the report of Dr. Jacob Rabinovich dated November 19, 1991 and solicited by the applicant's attorney, we might reasonably conclude that the applicant's attorney did not on these earlier dates believe that any real medical-legal

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issues existed, and that, if in some way the applicant's attorney participated in the generation of these expenses, he did in fact not rely on these reports in obtaining or attempting to obtain benefits for the injured worker for this accepted injury.

The liens of lien claimant Amerimed Corporation/Sand Point Medical Group for reasons set forth above, are denied in their entirety.



JOHN E. FAULKNER
WORKERS' COMPENSATION JUDGE

JEF:ibc