

Enrique Alvarez vs. LAUSD, Sedgwick CMS

Decision issued: 6/26/08

Issues:

Reasonable value of outpatient services prior to 1/1/04 fee schedule (Kunz).  
for outpatient services provided by SB Surgery Center.

Findings:

CFC expert witness provided an analysis consistent with Kunz on what other providers would accept within the geographical area. Judge agreed with the CFC expert witness testimony and concluded that the services by SB Surgery were reasonable and further payment was denied.

RECEIVED

ENRIQUE ALVAREZ

v.

L.A.U.S.D

Permissibly uninsured,  
Care of SEDGWICK CMS,

CCCS 880

WCJ:

JEROME E. BULAVSKY

SCANNED AM 6/30/08

OPINION ON DECISION

Applicant's case in chief was resolved by a Compromise and Release which was approved by this Workers Compensation Judge on September 21, 2004.

The current issue is the Lien of SB Surgery Center in the amount of \$143,982.00 for five dates of service. On September 11, 2002, the applicant underwent a lumbar discectomy. On December 28, 2002 and June 21, 2003 applicant received lumbar epidural injections. On October 17, 2003, applicant received a trial implantation of a spinal stimulator. On November 17, 2003 applicant received permanent implantation of the spinal stimulator. For these services, defendant has paid a sum of \$7,380.61.

This court begins by noting that the burden of proof rests on the party or lien claimant holding the affirmative of the issue and it is the lien claimant that bears the burden of establishing the reasonable value of the services (Zenith Insurance vs. WCAB, 71 CCC 374).

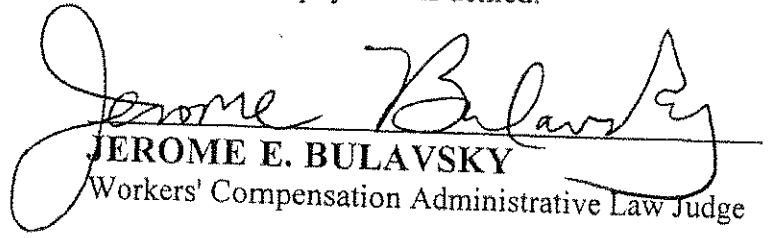
At trial, testimony was received from defense witness Beth Howard, a certified bill reviewer pursuant to Insurance code 11721. Defense witness provided detailed and persuasive testimony related to reimbursement rates based on the official medical fee schedule, Medicare, and the California Commission on Health and Safety and Workers Compensation (see Summary of Evidence dated December 11, 2007). Witness stated her Kunz analysis included a review based on what other providers would accept in the same geographical area both on an inpatient and outpatient basis.

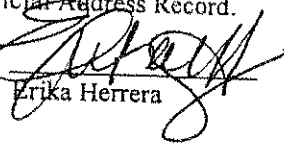
Defense exhibit "B" provides documentary evidence to support the testimony of the defense witness.

This court concludes that any prima facie showing by lien claimant based on their billing that the fees charged and claimed in these cases was reasonable has been effectively rebutted by the credible and persuasive testimony of defense expert witness in conjunction with the documentary evidence provided by defense exhibit "B".

Therefore, this court concludes that the payments made by defendant to lien claimant for services provided are reasonable and lien claimant request for further payment is denied.

Date: 6/26/08

  
**JEROME E. BULAVSKY**  
Workers' Compensation Administrative Law Judge

Filed and Served by mail on:  
On all parties on the  
Official Address Record.  
By:   
Erika Herrera

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

ENRIQUE ALVAREZ,

*Applicant,*

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT;  
PERMISSIBLY SELF-INSURED c/o  
SEDGWICK CMS,

*Defendants,*

Case No. MON 0281493

**ORDER ON DECISION**

**LAW OFFICES OF BERKOWITZ & COHEN**  
Attorney for Applicant

**JACOBS & KATZ**  
By: Mark Katz, Esq.  
Attorneys for Defendant

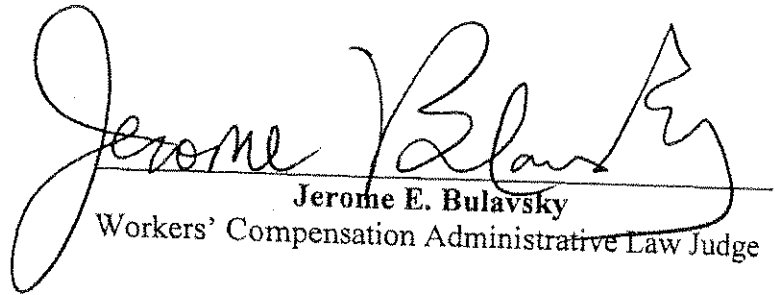
**SB SURGERY CENTER**  
By: Armando S. Mercado, Hearing Representative  
Lien Claimant

In accordance with the Opinion on Decision this day filed and served herewith, the applicant and the defendant having appeared and having submitted the matter for decision, the Honorable Jerome E. Bulavsky, Workers Compensation Administrative Law Judge, as follows:

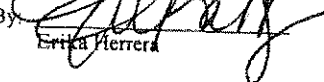
**ORDER**

IT IS HEREBY ORDERED that the lien claim of SB Surgery Center for further payment is denied.

Dated: 6/26/08

  
Jerome E. Bulavsky  
Workers' Compensation Administrative Law Judge

Filed and Served by mail on:  
On all parties on the Official  
Address Record

By:   
Erika Herrera