

COMPENSATION NEWS

MONTHLY REPORT

En Banc decision of the WCAB on Surgery Center Billing

This is an en banc
decision of the
WCAB

This is a significant
decision from the
Workers’
Compensation Appeals Board
(WCAB).

The WCAB evaluated a case
on surgery center billing charges.

The surgery center in this
case filed a lien for \$31,007.
The lien went to trial because the
defendant disputed the charges.
The Workers’ Compensation
Judge (WCJ) allowed the full
amount of the lien. The WCJ

In this issue..

Jimenez v. Galaxy Shade
Systems

indicated the defendant did not
raise the reasonableness and
necessity of treatment in the
Stipulations and Issues framed at
the trial.

The WCJ indicated in the
opinion that even if the defendant
would have raised the
reasonableness issue, the
defendant did not meet the
burden of proving the lien was
unreasonable. The defendant
filed a petition for
reconsideration which resulted in
this en banc decision.

The WCAB referred to a
previous en banc decision in
Kunz v. Patterson Floor
Covering. They also cited
another case for the proposition
that the burden of proof lies with
party or lien claimant holding the
affirmative on the issue; in this
case, the surgery center. The
WCAB indicated that the
defendant does not have the
burden to show that the surgery
center bill was unreasonable.

The WCAB indicated they
believed the WCJ misinterpreted
their holding in Kunz.

It appears that the WCAB is
stating that a surgery center bill
has to be reasonable on its face.
It won’t be presumed reasonable
as several in the industry had
contended. It must be reasonable
on its face even if the defendant
doesn’t challenge it. In this case
the defendant never even raised
the reasonableness at trial level
and it was still sent back to the
WCJ for evaluation of the bills’
reasonableness. Therefore, even
though there may have been no
defense the defendant prevailed.

=====
Editor: Harvey Brown
Firm: Samuelsen, Gonzalez,
Valenzuela and Brown
Address: 18881 Von
Karman # 250 Irvine 92612
Phone: 949 252-1300