

STATE OF CALIFORNIA  
Division of Workers' Compensation  
Workers' Compensation Appeals Board

Case No. ADJ [REDACTED]

[REDACTED]  
*Applicant,*  
  
vs.  
  
[REDACTED];  
[REDACTED];  
  
*Defendants.*

**FINDINGS OF FACT  
OPINION OF JUDGE ON DECISION**

The above entitled matter having been heard and regularly submitted, the Honorable Michael LeCover, Workers' Compensation Administrative Law Judge, now decides as follows:

**FINDINGS OF FACT**

1. Applicant's appeal of the UR decision is denied.

DATE: 9/12/2014



**Michael LeCover**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE

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## OPINION ON DECISION

As reflected in the minutes of hearing dated August 20, 2014 and the Stipulated Findings and Award approved on March 29, 2013 applicant, born October 17, 1952, while employed by defendant/employer as a sales clerk on July 1, 1995, sustained injury arising out of and in the course of employment to her back (420), psyche (842) and digestive system (810) which resulted in a permanent disability award of 61% and a finding applicant was in need of future medical care. The matter came forward on an expedited hearing on the challenge to the Utilization Review (Applicant's Exhibit 2)

The undersigned has considered the brief filed by Mr. Guiliani the undersigned is not in agreement with the entirety of the points brought up but there is one point the undersigned believes defendant is right on and the undersigned believes that point, in this case, is dispositive of the issue.

Mr. Guiliani appropriately refers to *Dubon vs. SCIF (en banc) (2014) 79 CC 313*. *Dubon* as the undersigned reads it makes two very broad points. The first is that the Board has the authority to review a UR determination to see if it is proper and based on substantial evidence. If that is determined to be the case then applicant has the burden to show by competent evidence that the treatment objected to is reasonable and necessary.

In general it is applicant's burden of proof to show that they are entitled to an award of future medical treatment. That must be shown by competent medical evidence. In a broader sense one who wants something from court must prove their legal entitlement to it. In other words, what law gives the court the authority to award this benefit and more specifically assuming the law entitles the individual to that benefit what specific evidence causes the court to base that award on?

In this case defendant has made several arguments but in the undersigned's opinion, applicant has not come forward with sufficient medical evidence to approve her entitlement to it.

Accordingly, the undersigned denies applicant's appeal of the UR decision.

The appropriate finding of fact will issue.

DATE: 9/12/2014



**Michael LeCover**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE