

STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION

Miguel Montes,

*Applicant,*

v.

Kole, Inc.,  
and  
Procentury Insurance Co.  
Administered by Illinois Midwest Ins. Agency,  
LLC,

*Defendants.*

Case No. ADJ8824674

**Order Denying Motion to Decide Billing  
Dispute**

**Findings of Fact**

- (1) Miguel Montes, applicant, born 7/25/1979, while employed on 1/30/2013 as a mechanic in San Jose, California, by Kole Inc., insured for worker's compensation liability by Procentury Insurance Co, sustained injury to his lumbar spine.
- (2) The dispute between Defendant and Lien Claimant Fremont Surgery Center is limited to various aspects of the issue of the amount owed to Lien Claimant by Defendant for services provided to the Applicant.
- (3) The WCAB has no jurisdiction over such issues, over which sole jurisdiction rests with the IBR procedure. Since IBR has not yet been filed for, no determination can now be made as to whether it is timely.

**ORDER**

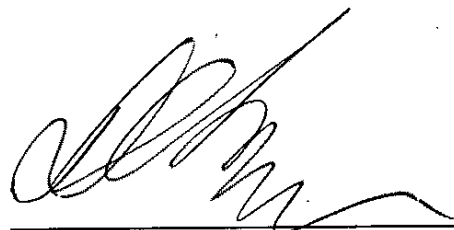
Lien Claimant's Motion that the WCAB assume jurisdiction over this dispute is DENIED.

**OPINION ON DECISION**

Lien claimant's Motion is based upon the argument that because Defendant underpaid this bill by means of erroneous coding (i.e. characterizing services believed by Lien Claimant to be five procedure to be only one procedure), this means the issue is not 'merely a billing issue' within the meaning of

Labor Code Section 4603.6. I do not accept this argument. This sort of coding dispute is nothing but a part of the billing dispute. Lien claimant seems to concede that but for the coding dispute, there would be no basic dispute at all between the parties, but the entire matter concerns how much money, if any Defendant owes to Lien Claimant for services provided. Nothing else is in issue. To claim that the coding dispute is something other than part of the billing dispute and therefore not subject to IBR would be to render IBR meaningless in most if not all cases.

I have neither formed nor here express any opinion as to the possible timeliness of any IBR request Lien Claimant may file in future in this matter.



David. L. Lauerman  
WORKERS' COMPENSATION JUDGE

Filed and Served by mail on: 12/21/2017

By: *Ngan Ly*  
On all parties on the  
Official Address Record.

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION

Date: 12-21-2017

OFFICIAL ADDRESS RECORD

Case Number: ADJ8824674

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ILLINOIS MIDWEST SPRINGFIELD	Claims Administrator, PO BOX 13369 SPRINGFIELD IL 62791
KOLE INC	Employer, 448 BLOSSOM HILL RD SAN JOSE CA 95123
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