

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 367 By Senator Riser**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

WORKERS' COMPENSATION. Provides for medical examinations in workers' compensation cases. (8/1/12)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Provides that upon the first request for authorization for a claimant's medical care, service, or treatment, the payor shall communicate to the claimant information regarding the procedure for requesting an independent medical examination in the event of a dispute.
2. Provides that the OWCA shall mail a brochure to the injured employee which outlines the procedure for requesting an independent medical examination in the event a dispute arises as to the condition of the employee, his capacity to work, and the procedure for an appeal of a denial of medical treatment.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

Present law provides that, relative to workers' compensation, if any dispute arises as to the condition of the employee, capacity to work, or the current medical treatment, the director of the office of workers' compensation, upon application of any party, will order an examination of the employee by a medical practitioner appointed by the director. Present law further requires the medical examiner to report his conclusions from the examination to the director and to the parties and provides such report shall be prima facie evidence of the facts in any subsequent proceedings regarding the claimant's workers' compensation case.

Proposed law retains present law but eliminates current medical treatment as a basis for dispute in this provision of present law.

Present law defines "payor" for purposes of workers' compensation as the entity responsible, whether by law or contract, for the payment of the medical expenses incurred by a claimant as a result of a work related injury.

Proposed law retains present law and adds the definition of "utilization review company" to mean the company or entity which contracts with the payor and reviews the injured worker's medical records and information and makes the determination of medical necessity, for the purposes of assisting the payor with the authorization of the injured worker's medical care, services and treatment.

Proposed law provides that the payor may contract with a utilization review company to assist the payor in determining if the request for nonemergency diagnostic testing or treatment, in an amount which exceeds \$750, is a medical necessity.

Proposed law provides that a medical necessity determination by a utilization review company and the payor's consent to authorize the requested nonemergency diagnostic testing and treatment shall require only a review of the injured worker's medical records and shall not require an examination of the injured employee.

Present law requires, in workers' compensation cases, the employer to furnish all necessary drugs, supplies, hospital care and services, medical and surgical treatment, and any nonmedical treatment recognized by the laws of this state as legal.

Present law requires that, upon the first payment for an injured worker's medical care, service, or treatment, the payor, to communicate to the injured worker information regarding the procedure for requesting an independent medical examination in the event a dispute arises as to the condition of the employee.

Present law further prohibits a payor from denying medical care, service, or treatment unless the payor can document a reasonable and diligent effort in communicating such information.

Present law further provides that a payor who denies medical care, service, or treatment without making such an effort may be fined up to \$500 or the cost of the medical care, service, or treatment, whichever is more.

Proposed law changes present law to provide that upon the first request for authorization pursuant to present law, instead of upon first payment, for a claimant's medical care, a payor shall communicate to the claimant the procedure for requesting an independent medical examination in the event of a dispute.

Proposed law further provides that present law also applies to disputes about the employee's capacity to work and the procedure for appealing the denial of medical treatment to the medical director at the office of workers' compensation.

Present law requires that, upon receipt of notice of injury from the employer or other indication of an injury, the office of workers' compensation administration shall mail immediately to the injured employee and employer a brochure which sets forth in clear understandable language a summary statement of the rights, benefits, and obligations of employers and employees. Requires the brochure to specifically state the procedure for requesting an independent medical examination in the event a dispute arises as to the condition of the employee and the procedure for an appeal of a denial of medical treatment.

Proposed law retains present law but provides that present law also applies to disputes about the employee's capacity to work and the procedure for appealing the denial of medical treatment to the medical director.

Present law provides that the director of the office of workers' compensation shall have certain powers, including the use of a utilization review process and to engage qualified experts in the appropriate health-care fields to assist him in the discharge of his responsibilities in utilization review.

Present law requires any party wishing to request an independent medical examination of the claimant, including the examinations at the direction of the director of the office of workers' compensation, to make its request at or prior to the pretrial conference.

Proposed law retains present law but removes the requirement that the request for an independent medical examination made at the behest of the director shall be made prior to the pretrial conference.

Effective August 1, 2012.

(Amends R.S. 23:1123, 1142(A) and (B)(1), 1203(E), 1307, and 1317.1(A))

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