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MUCH-NEEDED REFORM LEGISLATION, S.B. 563, IS A STEP IN THE RIGHT DIRECTION FOR CALIFORNIA WORKERS

By Scott O'Mara

Dan Walters, a columnist for The Sacramento Bee, has shared his opinion on newly-proposed Senate Bill 563 as a response to the existing legislation, Senate Bill 863, enacted in 2012. He noted that SB 563 “would partially undo the 2012 legislation by softening ‘utilization review’ of medical treatments”. According to Mr. Walters, Senate Bill 863 had “tightened up standards for medical and rehabilitation services to save money and increase cash benefits for disabled workers”. He further stated that “the Workers’ Compensation Research Institute reported recently that the average medical payment per claim declined by 5% in 2013, after several years of increases” and noted that “the Insurance Commissioner Dave Jones has approved a 5% reduction in base premiums paid by employers for coverage”.

The statistic that insurance premiums have been reduced by 5% strongly reflects that the existing legislation, Senate Bill 863, has unfortunately and unfairly shifted the costs for work-related injuries to workers and their families.

As stated in previous articles by Scott O'Mara, Senate Bill 863 needs to be refined so there is not a continuation in the shift in economic responsibility for medical care from employers to individual policies provided by such carriers as Kaiser, Blue Cross and Aetna, who offer personal medical coverage for injured workers and their families.

Proposed Senate Bill 563 acknowledges that the current legislative enactment (SB 863) has created tremendous vulnerability for injured workers who have previously entered into settlements granting lifetime medical care via Stipulations or as the result of a trial. The problem lies with the Utilization Review (UR)/Independent Medical Review (IMR) process, which places these workers at risk of not being able to access the lifetime medical care they have been justly awarded. The proposed legislation, SB 563, would, to a great degree, allow these workers who have been awarded future medical treatment to be exempt from the risks and frustrations of the UR/IMR process.

Currently, workers proceeding through the UR/IMR process often require the expertise of legal counsel to deal with the various challenges that process presents. However, those workers who resolved their cases many years ago by Stipulations or as the result of a trial may not have access to legal counsel for this purpose because of limits placed on payment to the attorney.

The proposed legislation, Senate Bill 563, would potentially limit the ability to deny, modify or remove decisions initially agreed upon or found to be correct by trial. Employers would have only a very limited basis on which to challenge such previously-awarded medical care – *i.e.*, with regard to the question as to whether there is evidence-based medical opinion justifying specific treatment. Thus, SB 563 would create a more just and equal playing field for California injured workers, protecting both them and their families.

As stated in previous articles regarding the UR/IMR process, further changes need to be implemented to ensure much-needed protection for California injured workers and their families, as mandated by the California State Constitution. The proposed legislation, Senate Bill 563, is definitely a step in the right direction. Without this small change, the unfair and unjust shift of economic responsibility for work injuries from employers and insurers to workers and their families will continue.

(For more information on proposed legislative changes affecting the California Workers' Compensation system, please see "2015 Issue #5" in the Law1199.com Newsletter series.)



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