INCENTIVES FOR THE EMPLOYER TO PROVIDE TIMELY AND APPROPRIATE MEDICAL CARE

By Scott A. O'Mara

Assembly Member Liz Ortega from Hayward, California has introduced an Assembly Bill, No.1213, which deals with the inadequacies of the current utilization and independent medical review process.

Her bill recognizes that the period of time that people have eligibility to receive payments pursuant to their medical temporary disability, can be impacted by the delay that occurs when there is a request for treatment, with a delay granting said treatment.

Treatment is one of the paramount assets that exist in the workers' compensation system. The medical treatment is to cure or relive the affects of the injury that is job related. The delay of treatment by the employer or their agent, in many situations, can make the medical condition more symptomatic and more disabling. In addition to, keeping the worker removed from the employment situation for a longer period of time. Assembly member Liz Ortega has specific legislation that states "If a denial of treatment requested by a treating physician is subsequently overturned by independent medical review or by the Workers' Compensation Appeals Board, any temporary disability paid or owing from the date of the denial until the treatment is authorized shall not be included in the calculation of the aggregate disability payments under the section".

Labor code sets forth in section 4656 that there are time parameters to access compensation during the period of time that the worker has been removed from work, because of the job related condition and the time, depending upon the body part or system it impacted can be anywhere from 104 weeks within a period of 5 years, or 240 weeks within 5 years, depending upon the medical diagnoses and problems that remove the worker from work.

The common element is that if the case is not processed expeditiously, by the adjuster, this may delay the amount that the worker could receive, for temporary disability payments.

Therefore the worker, if delayed in the payment, may go beyond the 104 weeks or 240 weeks, depending upon the body parts, as injured.

In the Law 1199.com Newsletter 2019, Issue 3 "PRPOSED CHANGES TO THE LABOR CODE", it restates that the California constitution article 14, section 4, mandates that there be a complete system of workers' compensation to enforce liability and the employer has to compensate the injured worker for disability.

The utilization review and independent medical review process, has created this monstrosity of delay for access to medical care, and disability payments. This legislation AB 1213, will push the employers to appropriately evaluate and respond as to the income and medical needs that are necessary for the worker. The disability not only impacts the workers' ability, as to their time they're off work and medical care, but also impacts potentially the level of residual disability and their ability to return back to work.

This refinement by assembly member Liz Ortega will assist the workers' to have appropriate and responsible medical care and appropriate and timely payments for lost time from work. With a more reasonable time line, this will allow them to be cured or relieved from the affects of their job related injury at a greater speed.

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