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SB 563 OFFERS NEW HOPE TO RIGHT THE WRONGS OF SB 863

BY: SCOTT A. O'MARA

Senate Bill 563, authored by Sen. Richard Pan, seeks to clarify injured workers' access to medical care in the face of the extensive denials resulting from prior legislation, Senate Bill 863. The new legislation, SB 563, is sponsored by the California Medical Association (CMA), which completed a study finding that two-thirds of the 231 medical practitioners (in 35 different specialties) who responded to a survey were having difficulty getting treatment authorized for their patients. Moreover, at least half of these practitioners felt that the Utilization Review (UR) system was inappropriately denying medically-necessary treatment.

After learning of a case involving an injured worker who was denied continuation of home health care expenses by Travelers Insurance even though the worker's condition had not changed, the Division of Workers' Compensation began auditing Travelers. They also issued a Newslines stating that previously-approved medical care cannot be denied without a change in an injured worker's condition. To emphasize this point, CMA felt new legislation — SB 563 — was necessary.

Regarding Senate Bill 563, the CMA's fact sheet states:

“This bill makes it clear that previously authorized care must be honored, unless there is a change in condition, to limit this confusion in the future and make sure these tragic stories being reported by physicians and injured workers alike do not become the new normal in [the] California workers' compensation system.”

Certainly, this issue is not based on isolated cases. For many injured workers who have obtained awards for lifetime medical care — either from a judge's determination or by agreement of the parties — the agreed-to care which the workers were receiving prior to the implementation of SB 863 has now been placed in jeopardy, as carriers are able to use the Utilization Review (UR) and Independent Medical Review (IMR) protocols to deny appropriate medical care designed to cure or relieve the workers from the effects of

their injuries. Because of UR and IMR, many injured workers no longer have access to the treatment they need, and from which they have previously benefitted.

The current bill, SB 563, will right this wrong. As stated above, it will ensure that “previously authorized care must be honored” unless a worker’s condition changes such that the care is no longer necessary.

In addition, the new legislation will create more accountability on the part of Utilization Review companies who are contracted by the employers to review treating doctors’ recommendations, as concern has been expressed that some of these companies may be providing economic incentives to their reviewers to deny recommended treatment in an effort to reduce costs. SB 563 will alleviate this concern by requiring UR companies to disclose how their reviewers are being compensated.

Many employer groups, including the California Chamber of Commerce, are taking issue with the new bill, claiming it will force taxpayers to pay for unnecessary or inappropriate medical care. However, it is important for all parties to go back to the California Constitution and recognize its requirement for workers injured on the job to receive the medical care they need to cure and relieve the effects of their injuries — care which many workers currently are *not* receiving.

The changes proposed by Senate Bill 563 are a good start in the right direction. Then, once established, these changes should be expanded as set forth in previous articles by this writer.

(Please see the prior articles regarding the Utilization Review and Independent Medical Review processes, and the failure of same, at www.law1199.com.)



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