

HOUSE BILL REPORT

HB 2359

As Reported by House Committee On: Labor & Workforce Development

Title: An act relating to the industrial insurance medical provider network with respect to provider treatment or procedures ordered by the board of industrial insurance appeals or a court and provider appeals.

Brief Description: Addressing the industrial insurance medical provider network with respect to provider treatment or procedures ordered by the board of industrial insurance appeals or a court and provider appeals.

Sponsors: Representatives Reykdal, Ormsby, Pollet, Sells, Moscoso, Lytton, Wylie, Jinkins, Fitzgibbon, Kenney and Santos.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/17/12, 1/30/12 [DPS].

Brief Summary of Substitute Bill

- Provides that the Department of Labor and Industries (Department) may not remove a provider from the health care provider network for failure to follow Department coverage decisions or treatment guidelines or policies if the treatment or procedure was ordered by the Board of Industrial Insurance Appeals or a court.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney, Miloscia, Moeller, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 5 members: Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Taylor and Warnick.

Staff: Joan Elgee (786-7106).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Legislation enacted in 2011 (Substitute Senate Bill 5801) directed the Department of Labor and Industries (Department) to establish a health care provider network (network) to treat injured workers. Once the network is established in a worker's geographic area, an injured worker may receive care for a provider outside the network only for the initial or emergency room visit.

Providers must meet minimum standards established by the Department to be accepted into the network and must follow the Department's evidence-based coverage decisions, treatment guidelines, and policies. The legislation directed the Department to collaborate with an advisory group. The advisory group recommends minimum standards for approval of an application, removal of a provider from the network, or to require peer review. A statutory committee, the Industrial Insurance Medical Advisory Committee, was directed to develop criteria for removal of providers for the advisory group and the Department's consideration.

The Department has adopted the initial set of rules implementing the network.

A worker, provider, or other person aggrieved by an order, decision, or award of the Department must file an appeal with the Board of Industrial Insurance Appeals (Board) before filing in court. Persons may also request reconsideration by the Department.

Summary of Substitute Bill:

The Department may not remove a provider from the network for failure to follow the Department's coverage decisions or treatment guidelines or policies if the treatment or procedure was ordered by the Board or a court.

Substitute Bill Compared to Original Bill:

The substitute bill deletes a provision stating that certain Department decisions regarding providers are final orders subject to reconsideration and appeal.

Appropriation: None.**Fiscal Note:** Available.**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) This bill cleans up some ripples left by last year's reform regarding providers. Access to care is a problem and these changes will help assure injured workers get care.

Providers need to know they will not be kicked out of the network for providing care or recommending treatment. These are matters of common sense, due process, and fundamental fairness. Every adverse action is not a final order; this bill makes decisions appealable. It would be best if this was in statute.

(Neutral) Substitute Senate Bill 5801 created a provider network advisory group that assisted in rule development. The due process issue and the issue of Board decisions on treatment were discussed. The rules adopted by the Department address both issues.

(Opposed) The medical provider network is a new process and the Legislature should not tinker with it. A rule is the same as a statute and there are protections in the rules. There is a subtle difference in that under the rule if you remove a provider, the provider does not get paid. A provider can always appeal.

Persons Testifying: (In support) Nicole Grant, Certified Electrical Workers of Washington; Katie Kolan, State Medical Association; Rebecca Johnson, Washington State Labor Council; Cody Arledge, United Food and Commercial Workers Local 21; Kathy Comfort, Washington Association of Justice; and Craig Soucy, Washington State Council of Fire Fighters.

(Neutral) Vickie Kennedy, Department of Labor and Industries.

(Opposed) Kathleen Collins, Washington Self Insurers Association.

Persons Signed In To Testify But Not Testifying: None.