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**SUBSTITUTE HOUSE BILL 2822**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representative McMorris; by request of Department of Labor & Industries)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to exempting department of labor and industries'  
2 medical coverage decisions from rule-making requirements; and amending  
3 RCW 51.04.030.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.04.030 and 1997 c 325 s 2 are each amended to read  
6 as follows:

7 (1) The director shall supervise the providing of prompt and  
8 efficient care and treatment, including care provided by physician  
9 assistants governed by the provisions of chapters 18.57A and 18.71A  
10 RCW, acting under a supervising physician, and including chiropractic  
11 care, to workers injured during the course of their employment at the  
12 least cost consistent with promptness and efficiency, without  
13 discrimination or favoritism, and with as great uniformity as the  
14 various and diverse surrounding circumstances and locations of  
15 industries will permit and to that end shall, from time to time,  
16 establish and adopt and supervise the administration of printed forms,  
17 rules, regulations, and practices for the furnishing of such care and  
18 treatment: PROVIDED, That the medical coverage decisions of the  
19 department do not constitute a "rule" as used in RCW 34.05.010(16), nor

1 are such decisions subject to the rule-making provisions of chapter  
2 34.05 RCW except that criteria for establishing medical coverage  
3 decisions shall be adopted by rule after consultation with the workers'  
4 compensation advisory committee established in RCW 51.04.110: PROVIDED  
5 FURTHER, That((7)) the department may recommend to an injured worker  
6 particular health care services and providers where specialized  
7 treatment is indicated or where cost effective payment levels or rates  
8 are obtained by the department: AND PROVIDED FURTHER, That the  
9 department may enter into contracts for goods and services including,  
10 but not limited to, durable medical equipment so long as state-wide  
11 access to quality service is maintained for injured workers.

12 (2) The director shall, in consultation with interested persons,  
13 establish and, in his or her discretion, periodically change as may be  
14 necessary, and make available a fee schedule of the maximum charges to  
15 be made by any physician, surgeon, chiropractor, hospital, druggist,  
16 physicians' assistants as defined in chapters 18.57A and 18.71A RCW,  
17 acting under a supervising physician or other agency or person  
18 rendering services to injured workers. The department shall coordinate  
19 with other state purchasers of health care services to establish as  
20 much consistency and uniformity in billing and coding practices as  
21 possible, taking into account the unique requirements and differences  
22 between programs. No service covered under this title, including  
23 services provided to injured workers, whether aliens or other injured  
24 workers, who are not residing in the United States at the time of  
25 receiving the services, shall be charged or paid at a rate or rates  
26 exceeding those specified in such fee schedule, and no contract  
27 providing for greater fees shall be valid as to the excess. The  
28 establishment of such a schedule, exclusive of conversion factors, does  
29 not constitute "agency action" as used in RCW 34.05.010(3), nor does  
30 such a fee schedule constitute a "rule" as used in RCW  
31 34.05.010(~~(15)~~) (16).

32 (3) The director or self-insurer, as the case may be, shall make a  
33 record of the commencement of every disability and the termination  
34 thereof and, when bills are rendered for the care and treatment of  
35 injured workers, shall approve and pay those which conform to the  
36 adopted rules, regulations, established fee schedules, and practices of  
37 the director and may reject any bill or item thereof incurred in  
38 violation of the principles laid down in this section or the rules,

- 1 regulations, or the established fee schedules and rules and regulations
- 2 adopted under it.

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