

SENATE BILL REPORT

SB 6428

As Reported By Senate Committee On:
Commerce & Trade, February 4, 2004

Title: An act relating to the role of the department of labor and industries in regards to health care providers.

Brief Description: Concerning industrial insurance health care providers.

Sponsors: Senator Honeyford.

Brief History:

Committee Activity: Commerce & Trade: 1/23/04, 2/4/04 [DPS, DNP].

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: That Substitute Senate Bill No. 6428 be substituted therefor, and the substitute bill do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; and Mulliken.

Minority Report: Do not pass.

Signed by Senators Franklin and Keiser.

Staff: Jennifer Strus (786-7316)

Background: If the Department of Labor and Industries (L&I) suspends a provider's eligibility to provide services to industrially injured workers and the provider appeals the suspension order to the Board of Industrial Insurance Appeals (BIIA), L&I's suspension order is stayed pending the outcome of the appeal. As a result of the stay, the provider can continue to provide workers' compensation health services.

The L&I director has authority to audit and investigate medical, chiropractic, dental, vocational and other health services providers who provide services to industrially injured workers. There are no specific requirements related to the reasons such audits or investigations may be conducted.

Summary of Substitute Bill: If a provider of services related to the treatment of industrially injured workers appeals to the BIIA an order issued by the Department of Labor and Industries (L&I) suspending the provider's authority to provide services, L&I may petition the BIIA for an order immediately suspending the provider's eligibility to participate as a provider of services in workers' compensation cases. The BIIA must grant the petition if there is good cause to believe the workers subject to the workers' compensation laws may suffer serious physical or mental harm if the suspension is not granted. BIIA must expedite the hearing of L&I's petition.

The director of L&I may conduct audits or investigations to determine if providers are complying with the workers' compensation statutes and regulations; engaging in

overutilization or improper billing practices; and adhering to practice parameters and protocols of treatment established under Title 51 RCW.

If L&I determines that a health services provider has improperly billed, over-utilized or failed to comply with L&I's rules, it must notify the provider of its findings. A provider must repay L&I for services that L&I decides have been improperly billed, overauthorized or did not follow appropriate treatment protocols. L&I may also determine that the provider shall not be paid for these services.

"Overutilization" is defined as establishing a pattern of providing inappropriate health service or level of service to injured workers.

Substitute Bill Compared to Original Bill: It is clarified that if a provider is found by L&I to have improperly billed or overutilized services or provided services that were outside practice parameters or protocols, the provider must repay L&I for those services, or, if L&I has not yet paid the provider, then L&I is not obligated to pay the provider. The provision allowing L&I to assess a penalty of up to \$500 per overpayment is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The provision in the bill that allows L&I to remove providers who have or may cause harm is good. L&I's hands are tied in removing problematic providers because the appeals drag on for years and until the appeal is completed, the provider can still see workers' compensation clients.

Testimony Against: The term "overutilization" is too broad a term; do not want to give L&I broad authority to determine what that term means. Parts of this bill allow L&I and self-insurers to second guess decisions doctors make with regard to the health of their patients.

Testified: PRO: Cliff Finch, Washington Food Industry; CON: Wayne Williams, WSTLA; Dave Johnson, WSBCTC; Robby Stern, WSLC.