
SENATE BILL 6428

State of Washington

58th Legislature

2004 Regular Session

By Senator Honeyford

Read first time 01/20/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to the role of the department of labor and
2 industries in regards to health care providers; amending RCW 51.36.110;
3 adding a new section to chapter 51.52 RCW; and adding a new section to
4 chapter 51.36 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.52 RCW
7 to read as follows:

8 When a provider files with the board an appeal from an order
9 terminating the provider's authority to provide services related to the
10 treatment of industrially injured workers, the department may petition
11 the board for an order immediately suspending the provider's
12 eligibility to participate as a provider of services to industrially
13 injured workers under this title pending the final disposition of the
14 appeal by the board. The board shall grant the petition if it
15 determines that there is good cause to believe that workers covered
16 under this title may suffer serious physical or mental harm if the
17 petition is not granted. The board shall expedite the hearing of the
18 department's petition under this section.

1 **Sec. 2.** RCW 51.36.110 and 1994 c 154 s 312 are each amended to
2 read as follows:

3 (1) The director of the department of labor and industries or the
4 director's authorized representative shall have the authority to:

5 ~~((1))~~ (a) Conduct audits and investigations of providers of
6 medical, chiropractic, dental, vocational, and other health services
7 furnished to industrially injured workers pursuant to Title 51 RCW to
8 determine whether providers are: (i) Complying with this title and the
9 rules adopted under this title; (ii) engaging in overutilization; (iii)
10 engaging in improper billing practices; and (iv) adhering to practice
11 parameters and protocols of treatment established under this title. In
12 the conduct of such audits or investigations, the director or the
13 director's authorized representatives may examine all records, or
14 portions thereof, including patient records, for which services were
15 rendered by a health services provider and reimbursed by the
16 department, notwithstanding the provisions of any other statute which
17 may make or purport to make such records privileged or confidential:
18 PROVIDED, That no original patient records shall be removed from the
19 premises of the health services provider, and that the disclosure of
20 any records or information obtained under authority of this section by
21 the department of labor and industries is prohibited and constitutes a
22 violation of RCW 42.52.050, unless such disclosure is directly
23 connected to the official duties of the department: AND PROVIDED
24 FURTHER, That the disclosure of patient information as required under
25 this section shall not subject any physician or other health services
26 provider to any liability for breach of any confidential relationships
27 between the provider and the patient: AND PROVIDED FURTHER, That the
28 director or the director's authorized representative shall destroy all
29 copies of patient medical records in their possession upon completion
30 of the audit, investigation, or proceedings;

31 ~~((2))~~ (b) Approve or deny applications to participate as a
32 provider of services furnished to industrially injured workers pursuant
33 to Title 51 RCW; and

34 ~~((3))~~ (c) Terminate or suspend eligibility to participate as a
35 provider of services furnished to industrially injured workers pursuant
36 to Title 51 RCW.

37 (2)(a) If the department finds that a health services provider has
38 improperly billed, overutilized, or failed to comply with rules adopted

1 under this title, including but not limited to practice parameters and
2 protocols established under this title, it must notify the provider of
3 its findings and may determine that the health services provider may
4 not receive payment from the department or self-insured employer, as
5 the case may be, or may impose penalties as provided in RCW 51.48.080.

6 (b) If a health services provider has received payment from the
7 department or self-insured employer for services that were improperly
8 billed, that constitute overutilization, or that were outside the
9 practice parameters or protocols established under this title, the
10 provider must repay those amounts to the department or self-insurer, as
11 the case may be. The department may assess a penalty of up to five
12 hundred dollars for each overpayment that is not refunded within thirty
13 days after notification of overpayment by the department.

14 (c) For the purposes of this subsection, "overutilization" means
15 providing an inappropriate health service or level of service to an
16 injured worker, including but not limited to providing treatment in
17 excess of established practice parameters and protocols of treatment
18 established under this title.

19 NEW SECTION. Sec. 3. A new section is added to chapter 51.36 RCW
20 to read as follows:

21 The department shall monitor the quality and objectivity of written
22 responses submitted to the department or self-insurers by attending or
23 treating providers in response to reports of medical examinations that
24 were ordered by the department or self-insurer under this section. At
25 least annually, the department will report to the workers' compensation
26 advisory committee on the quality and objectivity of these written
27 responses.

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