FINAL BILL REPORT
ESHB 1725

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Synopsis as Enacted

Brief Description: Addressing administrative efficiencies for the workers' compensation program.

Sponsors: House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells, Reykdal, Ormsby, Kenney and Upthegrove; by request of Department of Labor & Industries).

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background:

The Department of Labor and Industries (Department) administers the workers' compensation program. Employers must either insure through the State Fund or may self-insure if qualified. For State Fund employers, participation in a retrospective rating (retro) plan is available for employers or group of employers that meet specified requirements. Participation in retro allows an employer or a group of employers to assume a portion of industrial insurance risk and receive premium refunds or be assessed additional premiums based on claim losses.

The Department issues various notices under the workers' compensation program. Some of these notices must be sent by registered or certified mail.

The Director of the Department establishes a fee schedule of the maximum charges to be made by a medical provider. The fee schedule is not a "rule" under the Administrative Procedure Act.

Direct practice is a type of primary health care in which providers enter into agreements with patients to provide primary care services for a monthly fee. State law regulates direct practice. Legislation enacted in 2011 requires injured workers to generally seek care from a provider that is part of a medical provider network. An employer or provider may not require an injured worker to pay for the worker's medical care.

Summary:

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.

Industrial insurance notices and orders, other than claim closure orders, may be sent electronically if requested by the employer, worker, beneficiary, or other person affected. Persons choosing to receive electronic correspondence and legal notices must receive information to assist them in ensuring that all electronic documents and communications are received. Correspondence and notices sent electronically are considered received on the date sent.

Orders and notices required to be served by registered or certified mail may be served by any method for which receipt can be confirmed or tracked.

The billing or payment instructions and policies associated with a fee schedule do not constitute a "rule" under the Administrative Procedure Act.

The Department must report to the appropriate committees of the Legislature by December 1, 2011, on changes needed to ensure that an injured worker may receive care from a direct primary care provider and that the injured worker is not paying directly for medical services for the workplace injury or disease. The report must provide a timeline for rule development with a goal to have changes in place by July 1, 2013. The report must also include: data required from direct care providers necessary to establish premium rates, experience modification factors, and retro adjustments; medical cost or payment information that may be required from retro participants; any requirements for direct care providers to participate in the medical provider network and ensure the Department has information to efficiently manage worker claims; and any other issues or barriers to direct care provider participation in the workers' compensation system.

Payment by an employer for direct primary care services does not disqualify the employer from participating in retro, any related group sponsor from promoting a retro plan, or any related plan administrator from administering a retro plan. The retro employer, group sponsor, or plan administrator must provide any medical cost or payment information required by the Department. Before the retro adjustment for the plan year beginning January 1, 2012, the Department must determine the information needed and any changes to the retro premium and claim cost calculation to maintain appropriate and equitable retro refunds when employers pay for direct care services. The retro changes apply beginning with the January 1, 2012, plan year. Rule-making by the Department with respect to retro and direct primary care services is granted.

Votes on Final Passage:

House	96	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 22, 2011