
SUBSTITUTE HOUSE BILL 2359

State of Washington

62nd Legislature

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By House Labor & Workforce Development (originally sponsored by Representatives Reykdal, Ormsby, Pollet, Sells, Moscoso, Lytton, Wylie, Jinkins, Fitzgibbon, Kenney, and Santos)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to the industrial insurance medical provider
2 network with respect to provider treatment or procedures ordered by the
3 board of industrial insurance appeals or a court and provider appeals;
4 and amending RCW 51.36.010.

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

6 **Sec. 1.** RCW 51.36.010 and 2011 c 6 s 1 are each amended to read as
7 follows:

8 (1) The legislature finds that high quality medical treatment and
9 adherence to occupational health best practices can prevent disability
10 and reduce loss of family income for workers, and lower labor and
11 insurance costs for employers. Injured workers deserve high quality
12 medical care in accordance with current health care best practices. To
13 this end, the department shall establish minimum standards for
14 providers who treat workers from both state fund and self-insured
15 employers. The department shall establish a health care provider
16 network to treat injured workers, and shall accept providers into the
17 network who meet those minimum standards. The department shall convene
18 an advisory group made up of representatives from or designees of the
19 workers' compensation advisory committee and the industrial insurance

1 medical and chiropractic advisory committees to consider and advise the
2 department related to implementation of this section, including
3 development of best practices treatment guidelines for providers in the
4 network. The department shall also seek the input of various health
5 care provider groups and associations concerning the network's
6 implementation. Network providers must be required to follow the
7 department's evidence-based coverage decisions and treatment
8 guidelines, policies, and must be expected to follow other national
9 treatment guidelines appropriate for their patient. The department, in
10 collaboration with the advisory group, shall also establish additional
11 best practice standards for providers to qualify for a second tier
12 within the network, based on demonstrated use of occupational health
13 best practices. This second tier is separate from and in addition to
14 the centers for occupational health and education established under
15 subsection (5) of this section.

16 (2)(a) Upon the occurrence of any injury to a worker entitled to
17 compensation under the provisions of this title, he or she shall
18 receive proper and necessary medical and surgical services at the hands
19 of a physician or licensed advanced registered nurse practitioner of
20 his or her own choice, if conveniently located, except as provided in
21 (b) of this subsection, and proper and necessary hospital care and
22 services during the period of his or her disability from such injury.

23 (b) Once the provider network is established in the worker's
24 geographic area, an injured worker may receive care from a nonnetwork
25 provider only for an initial office or emergency room visit. However,
26 the department or self-insurer may limit reimbursement to the
27 department's standard fee for the services. The provider must comply
28 with all applicable billing policies and must accept the department's
29 fee schedule as payment in full.

30 (c) The department, in collaboration with the advisory group, shall
31 adopt policies for the development, credentialing, accreditation, and
32 continued oversight of a network of health care providers approved to
33 treat injured workers. Health care providers shall apply to the
34 network by completing the department's provider application which shall
35 have the force of a contract with the department to treat injured
36 workers. The advisory group shall recommend minimum network standards
37 for the department to approve a provider's application, to remove a

1 provider from the network, or to require peer review such as, but not
2 limited to:

3 (i) Current malpractice insurance coverage exceeding a dollar
4 amount threshold, number, or seriousness of malpractice suits over a
5 specific time frame;

6 (ii) Previous malpractice judgments or settlements that do not
7 exceed a dollar amount threshold recommended by the advisory group, or
8 a specific number or seriousness of malpractice suits over a specific
9 time frame;

10 (iii) No licensing or disciplinary action in any jurisdiction or
11 loss of treating or admitting privileges by any board, commission,
12 agency, public or private health care payer, or hospital;

13 (iv) For some specialties such as surgeons, privileges in at least
14 one hospital;

15 (v) Whether the provider has been credentialed by another health
16 plan that follows national quality assurance guidelines; and

17 (vi) Alternative criteria for providers that are not credentialed
18 by another health plan.

19 The department shall develop alternative criteria for providers
20 that are not credentialed by another health plan or as needed to
21 address access to care concerns in certain regions.

22 (d) Network provider contracts will automatically renew at the end
23 of the contract period unless the department provides written notice of
24 changes in contract provisions or the department or provider provides
25 written notice of contract termination. The industrial insurance
26 medical advisory committee shall develop criteria for removal of a
27 provider from the network to be presented to the department and
28 advisory group for consideration in the development of contract terms.
29 The department may not remove a provider from the network for failure
30 to follow the department's coverage decisions or treatment guidelines
31 or policies if the treatment or procedure performed by the provider was
32 ordered by the board of industrial insurance appeals or a court.

33 (e) In order to monitor quality of care and assure efficient
34 management of the provider network, the department shall establish
35 additional criteria and terms for network participation including, but
36 not limited to, requiring compliance with administrative and billing
37 policies.

1 (f) The advisory group shall recommend best practices standards to
2 the department to use in determining second tier network providers.
3 The department shall develop and implement financial and nonfinancial
4 incentives for network providers who qualify for the second tier. The
5 department is authorized to certify and decertify second tier
6 providers.

7 (3) The department shall work with self-insurers and the department
8 utilization review provider to implement utilization review for the
9 self-insured community to ensure consistent quality, cost-effective
10 care for all injured workers and employers, and to reduce
11 administrative burden for providers.

12 (4) The department for state fund claims shall pay, in accordance
13 with the department's fee schedule, for any alleged injury for which a
14 worker files a claim, any initial prescription drugs provided in
15 relation to that initial visit, without regard to whether the worker's
16 claim for benefits is allowed. In all accepted claims, treatment shall
17 be limited in point of duration as follows:

18 In the case of permanent partial disability, not to extend beyond
19 the date when compensation shall be awarded him or her, except when the
20 worker returned to work before permanent partial disability award is
21 made, in such case not to extend beyond the time when monthly
22 allowances to him or her shall cease; in case of temporary disability
23 not to extend beyond the time when monthly allowances to him or her
24 shall cease: PROVIDED, That after any injured worker has returned to
25 his or her work his or her medical and surgical treatment may be
26 continued if, and so long as, such continuation is deemed necessary by
27 the supervisor of industrial insurance to be necessary to his or her
28 more complete recovery; in case of a permanent total disability not to
29 extend beyond the date on which a lump sum settlement is made with him
30 or her or he or she is placed upon the permanent pension roll:
31 PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely
32 in his or her discretion, may authorize continued medical and surgical
33 treatment for conditions previously accepted by the department when
34 such medical and surgical treatment is deemed necessary by the
35 supervisor of industrial insurance to protect such worker's life or
36 provide for the administration of medical and therapeutic measures
37 including payment of prescription medications, but not including those
38 controlled substances currently scheduled by the state board of

1 pharmacy as Schedule I, II, III, or IV substances under chapter 69.50
2 RCW, which are necessary to alleviate continuing pain which results
3 from the industrial injury. In order to authorize such continued
4 treatment the written order of the supervisor of industrial insurance
5 issued in advance of the continuation shall be necessary.

6 The supervisor of industrial insurance, the supervisor's designee,
7 or a self-insurer, in his or her sole discretion, may authorize
8 inoculation or other immunological treatment in cases in which a work-
9 related activity has resulted in probable exposure of the worker to a
10 potential infectious occupational disease. Authorization of such
11 treatment does not bind the department or self-insurer in any
12 adjudication of a claim by the same worker or the worker's beneficiary
13 for an occupational disease.

14 (5)(a) The legislature finds that the department and its business
15 and labor partners have collaborated in establishing centers for
16 occupational health and education to promote best practices and prevent
17 preventable disability by focusing additional provider-based resources
18 during the first twelve weeks following an injury. The centers for
19 occupational health and education represent innovative accountable care
20 systems in an early stage of development consistent with national
21 health care reform efforts. Many Washington workers do not yet have
22 access to these innovative health care delivery models.

23 (b) To expand evidence-based occupational health best practices,
24 the department shall establish additional centers for occupational
25 health and education, with the goal of extending access to at least
26 fifty percent of injured and ill workers by December 2013 and to all
27 injured workers by December 2015. The department shall also develop
28 additional best practices and incentives that span the entire period of
29 recovery, not only the first twelve weeks.

30 (c) The department shall certify and decertify centers for
31 occupational health and education based on criteria including
32 institutional leadership and geographic areas covered by the center for
33 occupational health and education, occupational health leadership and
34 education, mix of participating health care providers necessary to
35 address the anticipated needs of injured workers, health services
36 coordination to deliver occupational health best practices, indicators
37 to measure the success of the center for occupational health and

1 education, and agreement that the center's providers shall, if
2 feasible, treat certain injured workers if referred by the department
3 or a self-insurer.

4 (d) Health care delivery organizations may apply to the department
5 for certification as a center for occupational health and education.
6 These may include, but are not limited to, hospitals and affiliated
7 clinics and providers, multispecialty clinics, health maintenance
8 organizations, and organized systems of network physicians.

9 (e) The centers for occupational health and education shall
10 implement benchmark quality indicators of occupational health best
11 practices for individual providers, developed in collaboration with the
12 department. A center for occupational health and education shall
13 remove individual providers who do not consistently meet these quality
14 benchmarks.

15 (f) The department shall develop and implement financial and
16 nonfinancial incentives for center for occupational health and
17 education providers that are based on progressive and measurable gains
18 in occupational health best practices, and that are applicable
19 throughout the duration of an injured or ill worker's episode of care.

20 (g) The department shall develop electronic methods of tracking
21 evidence-based quality measures to identify and improve outcomes for
22 injured workers at risk of developing prolonged disability. In
23 addition, these methods must be used to provide systematic feedback to
24 physicians regarding quality of care, to conduct appropriate objective
25 evaluation of progress in the centers for occupational health and
26 education, and to allow efficient coordination of services.

27 (6) If a provider fails to meet the minimum network standards
28 established in subsection (2) of this section, the department is
29 authorized to remove the provider from the network or take other
30 appropriate action regarding a provider's participation. The
31 department may also require remedial steps as a condition for a
32 provider to participate in the network. The department, with input
33 from the advisory group, shall establish waiting periods that may be
34 imposed before a provider who has been denied or removed from the
35 network may reapply.

36 (7) The department may permanently remove a provider from the
37 network or take other appropriate action when the provider exhibits a
38 pattern of conduct of low quality care that exposes patients to risk of

1 physical or psychiatric harm or death. Patterns that qualify as risk
2 of harm include, but are not limited to, poor health care outcomes
3 evidenced by increased, chronic, or prolonged pain or decreased
4 function due to treatments that have not been shown to be curative,
5 safe, or effective or for which it has been shown that the risks of
6 harm exceed the benefits that can be reasonably expected based on peer-
7 reviewed opinion.

8 (8) The department may not remove a health care provider from the
9 network for an isolated instance of poor health and recovery outcomes
10 due to treatment by the provider.

11 (9) When the department terminates a provider from the network, the
12 department or self-insurer shall assist an injured worker currently
13 under the provider's care in identifying a new network provider or
14 providers from whom the worker can select an attending or treating
15 provider. In such a case, the department or self-insurer shall notify
16 the injured worker that he or she must choose a new attending or
17 treating provider.

18 (10) The department may adopt rules related to this section.

19 (11) The department shall report to the workers' compensation
20 advisory committee and to the appropriate committees of the legislature
21 on each December 1st, beginning in 2012 and ending in 2016, on the
22 implementation of the provider network and expansion of the centers for
23 occupational health and education. The reports must include a summary
24 of actions taken, progress toward long-term goals, outcomes of key
25 initiatives, access to care issues, results of disputes or
26 controversies related to new provisions, and whether any changes are
27 needed to further improve the occupational health best practices care
28 of injured workers.

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