
SUBSTITUTE HOUSE BILL 1613

State of Washington

64th Legislature

2015 Regular Session

By House Labor (originally sponsored by Representatives Pollet, Haler, Reykdal, Sells, Dunshee, Walkinshaw, and Gregerson)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to treatment to protect life or alleviate pain of
2 injured workers with permanent partial disabilities; amending RCW
3 51.36.010; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a primary goal
6 of the state's industrial insurance system is to assure injured
7 workers receive proper and necessary medical treatment. The
8 legislature further finds that in certain cases, a worker requires
9 ongoing prescription medications and related treatment to protect the
10 worker's life and to reduce physical suffering and minimize economic
11 loss, after the worker's condition has become fixed. Therefore, the
12 legislature intends to give the department authority to allow
13 continuing medications and related treatment in certain cases of
14 permanent partial disability.

15 **Sec. 2.** RCW 51.36.010 and 2013 c 19 s 48 are each amended to
16 read as follows:

17 (1) The legislature finds that high quality medical treatment and
18 adherence to occupational health best practices can prevent
19 disability and reduce loss of family income for workers, and lower
20 labor and insurance costs for employers. Injured workers deserve high

1 quality medical care in accordance with current health care best
2 practices. To this end, the department shall establish minimum
3 standards for providers who treat workers from both state fund and
4 self-insured employers. The department shall establish a health care
5 provider network to treat injured workers, and shall accept providers
6 into the network who meet those minimum standards. The department
7 shall convene an advisory group made up of representatives from or
8 designees of the workers' compensation advisory committee and the
9 industrial insurance medical and chiropractic advisory committees to
10 consider and advise the department related to implementation of this
11 section, including development of best practices treatment guidelines
12 for providers in the network. The department shall also seek the
13 input of various health care provider groups and associations
14 concerning the network's implementation. Network providers must be
15 required to follow the department's evidence-based coverage decisions
16 and treatment guidelines, policies, and must be expected to follow
17 other national treatment guidelines appropriate for their patient.
18 The department, in collaboration with the advisory group, shall also
19 establish additional best practice standards for providers to qualify
20 for a second tier within the network, based on demonstrated use of
21 occupational health best practices. This second tier is separate from
22 and in addition to the centers for occupational health and education
23 established under subsection (5) of this section.

24 (2)(a) Upon the occurrence of any injury to a worker entitled to
25 compensation under the provisions of this title, he or she shall
26 receive proper and necessary medical and surgical services at the
27 hands of a physician or licensed advanced registered nurse
28 practitioner of his or her own choice, if conveniently located,
29 except as provided in (b) of this subsection, and proper and
30 necessary hospital care and services during the period of his or her
31 disability from such injury.

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

39 (c) The department, in collaboration with the advisory group,
40 shall adopt policies for the development, credentialing,

1 accreditation, and continued oversight of a network of health care
2 providers approved to treat injured workers. Health care providers
3 shall apply to the network by completing the department's provider
4 application which shall have the force of a contract with the
5 department to treat injured workers. The advisory group shall
6 recommend minimum network standards for the department to approve a
7 provider's application, to remove a provider from the network, or to
8 require peer review such as, but not limited to:

9 (i) Current malpractice insurance coverage exceeding a dollar
10 amount threshold, number, or seriousness of malpractice suits over a
11 specific time frame;

12 (ii) Previous malpractice judgments or settlements that do not
13 exceed a dollar amount threshold recommended by the advisory group,
14 or a specific number or seriousness of malpractice suits over a
15 specific time frame;

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

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

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

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

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

28 (d) Network provider contracts will automatically renew at the
29 end of the contract period unless the department provides written
30 notice of changes in contract provisions or the department or
31 provider provides written notice of contract termination. The
32 industrial insurance medical advisory committee shall develop
33 criteria for removal of a provider from the network to be presented
34 to the department and advisory group for consideration in the
35 development of contract terms.

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

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

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

12 (4)(a) The department for state fund claims shall pay, in
13 accordance with the department's fee schedule, for any alleged injury
14 for which a worker files a claim, any initial prescription drugs
15 provided in relation to that initial visit, without regard to whether
16 the worker's claim for benefits is allowed.

17 (b) In all accepted claims, treatment shall be limited in point
18 of duration as follows:

19 (i) In the case of permanent partial disability, not to extend
20 beyond the date when compensation shall be awarded him or her,
21 except:

22 (A) When the worker returned to work before permanent partial
23 disability award is made, in such case not to extend beyond the time
24 when monthly allowances to him or her shall cease; or

25 (B) That the supervisor of industrial insurance, solely in his or
26 her discretion, may authorize continued medications and related
27 treatment beyond the date of award and claim closure in certain cases
28 where medications and related treatment are required for the worker's
29 previously accepted physical condition and are deemed necessary by
30 the supervisor of industrial insurance to protect the worker's life.
31 A written order of the supervisor of industrial insurance must be
32 issued in advance of the continuation of such medications and related
33 treatment. Medications may not include those controlled substances
34 currently scheduled by the pharmacy quality assurance commission as
35 Schedule I, II, III, or IV substances under chapter 69.50 RCW.

36 (ii) In case of temporary disability not to extend beyond the
37 time when monthly allowances to him or her shall cease(~~(: PROVIDED,~~
38 ~~That)).~~ After any injured worker has returned to his or her work his
39 or her medical and surgical treatment may be continued if, and so
40 long as, such continuation is deemed necessary by the supervisor of

1 industrial insurance to be necessary to his or her more complete
2 recovery;

3 (iii) In case of a permanent total disability not to extend
4 beyond the date on which a lump sum settlement is made with him or
5 her or he or she is placed upon the permanent pension roll(~~(+~~
6 ~~PROVIDED, HOWEVER, That)~~). However, the supervisor of industrial
7 insurance, solely in his or her discretion, may authorize continued
8 medical and surgical treatment for conditions previously accepted by
9 the department when such medical and surgical treatment is deemed
10 necessary by the supervisor of industrial insurance to protect such
11 worker's life or provide for the administration of medical and
12 therapeutic measures including payment of prescription medications,
13 but not including those controlled substances currently scheduled by
14 the pharmacy quality assurance commission as Schedule I, II, III, or
15 IV substances under chapter 69.50 RCW, which are necessary to
16 alleviate continuing pain which results from the industrial injury.
17 In order to authorize such continued treatment the written order of
18 the supervisor of industrial insurance issued in advance of the
19 continuation shall be necessary.

20 (c) The supervisor of industrial insurance, the supervisor's
21 designee, or a self-insurer, in his or her sole discretion, may
22 authorize inoculation or other immunological treatment in cases in
23 which a work-related activity has resulted in probable exposure of
24 the worker to a potential infectious occupational disease.
25 Authorization of such treatment does not bind the department or self-
26 insurer in any adjudication of a claim by the same worker or the
27 worker's beneficiary for an occupational disease.

28 (5)(a) The legislature finds that the department and its business
29 and labor partners have collaborated in establishing centers for
30 occupational health and education to promote best practices and
31 prevent preventable disability by focusing additional provider-based
32 resources during the first twelve weeks following an injury. The
33 centers for occupational health and education represent innovative
34 accountable care systems in an early stage of development consistent
35 with national health care reform efforts. Many Washington workers do
36 not yet have access to these innovative health care delivery models.

37 (b) To expand evidence-based occupational health best practices,
38 the department shall establish additional centers for occupational
39 health and education, with the goal of extending access to at least
40 fifty percent of injured and ill workers by December 2013 and to all

1 injured workers by December 2015. The department shall also develop
2 additional best practices and incentives that span the entire period
3 of recovery, not only the first twelve weeks.

4 (c) The department shall certify and decertify centers for
5 occupational health and education based on criteria including
6 institutional leadership and geographic areas covered by the center
7 for occupational health and education, occupational health leadership
8 and education, mix of participating health care providers necessary
9 to address the anticipated needs of injured workers, health services
10 coordination to deliver occupational health best practices,
11 indicators to measure the success of the center for occupational
12 health and education, and agreement that the center's providers
13 shall, if feasible, treat certain injured workers if referred by the
14 department or a self-insurer.

15 (d) Health care delivery organizations may apply to the
16 department for certification as a center for occupational health and
17 education. These may include, but are not limited to, hospitals and
18 affiliated clinics and providers, multispecialty clinics, health
19 maintenance organizations, and organized systems of network
20 physicians.

21 (e) The centers for occupational health and education shall
22 implement benchmark quality indicators of occupational health best
23 practices for individual providers, developed in collaboration with
24 the department. A center for occupational health and education shall
25 remove individual providers who do not consistently meet these
26 quality benchmarks.

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

33 (g) The department shall develop electronic methods of tracking
34 evidence-based quality measures to identify and improve outcomes for
35 injured workers at risk of developing prolonged disability. In
36 addition, these methods must be used to provide systematic feedback
37 to physicians regarding quality of care, to conduct appropriate
38 objective evaluation of progress in the centers for occupational
39 health and education, and to allow efficient coordination of
40 services.

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

10 (7) The department may permanently remove a provider from the
11 network or take other appropriate action when the provider exhibits a
12 pattern of conduct of low quality care that exposes patients to risk
13 of physical or psychiatric harm or death. Patterns that qualify as
14 risk of harm include, but are not limited to, poor health care
15 outcomes evidenced by increased, chronic, or prolonged pain or
16 decreased function due to treatments that have not been shown to be
17 curative, safe, or effective or for which it has been shown that the
18 risks of harm exceed the benefits that can be reasonably expected
19 based on peer-reviewed opinion.

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

23 (9) When the department terminates a provider from the network,
24 the department or self-insurer shall assist an injured worker
25 currently under the provider's care in identifying a new network
26 provider or providers from whom the worker can select an attending or
27 treating provider. In such a case, the department or self-insurer
28 shall notify the injured worker that he or she must choose a new
29 attending or treating provider.

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

31 (11) The department shall report to the workers' compensation
32 advisory committee and to the appropriate committees of the
33 legislature on each December 1st, beginning in 2012 and ending in
34 2016, on the implementation of the provider network and expansion of
35 the centers for occupational health and education. The reports must
36 include a summary of actions taken, progress toward long-term goals,
37 outcomes of key initiatives, access to care issues, results of
38 disputes or controversies related to new provisions, and whether any

1 changes are needed to further improve the occupational health best
2 practices care of injured workers.

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