Medical Providers: Workers' Comp Reform Legislative Alert

Recently, the Pennsylvania Chamber of Commerce and at least one member of the Pennsylvania legislature submitted proposals for reform to the Department of Labor and Industry to "improve the quality of care and curtail waste and abuse in the current [workers' compensation] system." While veiling itself as an attack on systemic waste, in reality, the proposal is clearly aimed at reducing insurance carriers costs related to the medical care provided to injured workers. In essence, the legislation would treat injured workers and the medical providers who treat them as second-class citizens.

The proposed "reforms" are as follows:

- Extension of the captive care period with panel providers from 90 to 180 days.
- Creation of mandatory prescription benefits managers. This would require that prescriptions for work injuries be provided solely by pharmacies chosen by the employer/insurance carrier.
- Mandatory drug testing at set intervals whenever class 2 narcotics are prescribed for a work injury.
- Removal of workers' compensation judges from the Utilization Review appeal process.
- Fee schedules for treatment of work injuries to be altered and modified annually.
- Medical bills will only be payable if submitted properly within 180 days from the date of treatment.

If enacted into law, the proposal would have a detrimental impact on the quality of care available to injured workers, because it unjustifiably restrains the ability of medical providers to utilize their skills to treat work injuries. Specifically, the legislative proposal seeks to extend the

period from 90 to 180 days during which claimants are required (if all employer obligations are met) to treat only with panel physicians. This unfairly prevents injured workers from receiving quality medical care during the most critical time following an injury—its acute phase. Furthermore, arbitrarily altering fee schedules on an annual basis creates great uncertainty regarding reimbursements for care. Requiring bills to be submitted within 180 days fails to recognize the realities of current medical billing procedures. Clearly, the proposal's stated goal of improved "quality of care" is false. The opposite is more likely the case.

While these proposals have not yet been drafted into any legislation, we will be monitoring the situation carefully. Martin Law partners Alfred Carlson, Esq. and Joseph Huttemann, Esq. are members of the governing boards of the Philadelphia Trial Lawyers Association and Pennsylvania Association of Justice who are closely monitoring any legislative changes. Should a bill be proposed for enactment, we will alert and assist you in making your voice heard regarding these changes. Click to view a copy of the Chamber Proposal.