

Compliance and Regulations Newsletter

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HAWAII

Bill Would Mandate Payment Deadline and Interest for Late Payments

A bill has been introduced that would require an employer to pay for all medical services related to an employee's compensable injury. It also provides a process for an employer to dispute the payment of a medical bill.

Senate Bill 1412, by Senator Les Ihara Jr., would also require an employer that elects to controvert an employee's claim for medical services or any portion thereof, to provide notice of the denial to the provider within 60 calendar days of receipt of the bill. If the employer fails to dispute the claim within the 60-day period, the employer would be liable for the services provided, with evidence showing that the billing was received.

The bill would require employers to pay all charges billed within 60 calendar days except when there is a reasonable disagreement and the employer has submitted timely notice to the provider.

If more than 60 days has passed between the receipt of an undisputed bill and the date of payment, interest would accrue at a rate of 1% per month of the outstanding balance.

The bill would require an employer to pay for all charges and notify the health care provider and the worker of the denial of payment, and the reasons for denial within 60 calendar days of receipt of the billing.

The employer's denial notice must explicitly state if the provider does not agree, the provider may file a bill dispute request with the director within 60 calendar days after postmark of the employer's objection. The denial notice must also include a copy of the original bill and explicitly state that failure

to file a bill dispute request shall be construed as an acceptance of the employer's denial.

Senate Bill 1412 was referred to the Commerce, Consumer Protection, & Health and Labor, Culture, & Arts Committees on January 28th. No further has been taken.

[Source](#)

MONTANA

Bill for Employee Physician Choice Tabled

Rep. Andrea Olsen introduced House Bill 313 which, if passed, would eliminate a Labor Code section allowing insurers to designate or approve a treating physician if liability has been accepted for the claim.

Labor Code §39-71-1101 currently allows an injured worker to choose a health care provider for initial treatment and to select a treating physician after initial treatment and diagnosis with the insurer's approval of that physician. The proposed bill would allow an injured worker to designate a treating physician.

Designation of a treating physician must take into account the type of injury and address the worker's location and proximity to the treating physician. If the insurer has accepted liability for the claim, the treating physician may be changed with the consent of the worker. Refusal to consent to a change in treating physician is subject to mediation.

The proposed bill also states if an injured worker notifies the insurer of his agreement to use the insurer's preferred provider, the insurer is not liable for charges from non-preferred providers unless emergency medical treatment is needed. If the injured worker requires emergency medical treatment for a compensable injury, the insurer must pay 100% of the fee schedule value for such emergency medical treatment even if the treatment was provided by a health care provider outside of the preferred provider organization.

HB 313 was tabled by the House Business and Labor Committee on February 15th and missed the deadline for general bill transmittal on March 1st. Current Bill Progress is noted as "probably dead" on the Montana Legislature website.

[Source 1](#), [Source 2](#)

NEBRASKA

Drug Formulary Being Considered

Nebraska could become the next state to adopt a workers' compensation drug formulary. The purpose of a drug formulary is to ensure prescribed medications are appropriate for injuries sustained by workers. A drug formulary establishes safeguards while reducing the possibility of misuse, abuse, or overdose from powerful drugs.

If passed, Legislative Bill 487 would require the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary. The formulary would consist of prescription drugs in Schedules II, III, IV, and V and apply to prescription drugs prescribed and dispensed for outpatient use in workers' compensation claims with dates of injury on or after January 1, 2020.

LB 487, introduced by Sen. Andrew La Grone, would allow prescription drugs listed and recommended in the formulary to be prescribed and dispensed without prior authorization from the insurer or self-insured employer. Prescription drugs listed in the formulary are presumed to be reasonable.

Prescription drugs not included in the formulary or drugs included within the formulary, but not recommended, require prior authorization from the insurer or self-insured employer before it is presumed to be reasonable.

A claimant may request an independent medical examiner if a carrier or employer denies payment or authorization for a drug that is not preferred.

If an insurer or self-insured employer denies payment or denies prior authorization based on the formulary, any party may request a finding by an independent medical examiner.

The bill directs the Court to consult with stakeholders, including but not limited to, employers, insurers, private and public sector employee representatives, treating physicians, pharmacists, and attorneys. During a hearing held by the Business and Labor Committee on March 4, 2019, Senator Quick said "so I would ask that we could look at this bill to see if there's anything we can do to try to address some of the issues and I'm willing to work with everyone."

At this time, another hearing has not been scheduled to discuss the proposed bill.

[Source 1](#), [Source 2](#)

