Workers' Comp Legislative Activity

August 15, 2020 – October 1, 2020

CALIFORNIA

AB 1107

Actions:
08/31/2020 Failed to pass final deadline
08/20/2020 Hearing held in Senate Appropriations Committee; held under submission
08/19/2020 Hearing held in Senate Appropriations Committee; placed on suspense file
08/14/2020 Hearing Held; Passed; Referred to Senate Appropriations Committee
08/07/2020 Amended
07/14/2020 Hearing Cancelled
07/02/2020 Amended
07/01/2020 Referred to Senate Governmental Organization Committee
05/26/2020 Amended
04/22/2020 Amended
05/16/2019 Referred to Senate Labor, Public Employment, and Retirement Committee
05/02/2019 Passed Assembly
04/24/2019 Hearing held; passed Committee
04/22/2019 Amended
03/26/2019 Amended
03/25/2019 Referred to Assembly Insurance Committee
02/21/2019 Introduced

Summary: Summary for 03/26/2019 Version

This measure exempts medical treatment requested by a primary or secondary treating physician from the utilization review process and from dispute on the grounds of medical necessity if either:

- i. the employee suffers from a serious chronic condition; or
- ii. the requested treatment has been previously authorized by the employer and the employer fails to demonstrate a change in the employees circumstances or condition which would render the treatment no longer reasonably required to cure or relieve the employee from the effects of the industrial injury.

The measure also exempts medical treatment requested by a primary or secondary treating physician from the utilization review process and from dispute on the grounds of medical necessity if the employer has established a medical provider network pursuant to Section 4616 and the requesting physician is a member of the medical provider network.

Summary for 4/22/2019 Version

The measure makes a final determination of the Administrative Director of the Division of Workers Compensation conclusive evidence that medical treatment was unreasonably delayed or denied.

This measure now relates to requiring documents issued by the Governor's office to be made available in multiple languages.

The amended measure now requires that materials, and announcements made by the Governor or issued by a state agency related to a duly proclaimed state of emergency shall be made available statewide in all the threshold languages spoken by limited-English-proficient speakers.

Outlook: Pursuant to Joint Rule 51(b)(3), the legislature has recessed until sine die adjournment on November 30. Both chambers are next scheduled to convene on December 7, 2020, the start of the 2021-2022 Legislative Session. This measure is unlikely to receive further consideration.

Bill Links: 8/07/2020 Version
7/02/2020 Version
5/26/2020 Version
4/22/2020 Version
4/22/2019 Version
3/26/2019 Version
2/21/2019 Version

CALIFORNIA

AB 2294

Actions: 08/31/2020 Failed to pass final deadline
05/04/2020 Amended
04/24/2020 Referred to Assembly Insurance Committee
02/14/2020 Introduced

Summary: Summary for 5/4/2020 Version

This measure applies to medical providers, provider networks, insurance carriers, claims administrators, utilization review entities, the Administrative Director or the Division of Workers' Compensation, the Electronic Adjudication Management System (EAMS).

This measure imposes new requirements on medical provider networks, requiring a participating provider to participate at each location at which they treat patients for 8 or more hours per week, on a monthly average.

This measure also prohibits authorizations or certifications issued by a carrier, claims administrator, medical provider network, or utilization review entity from providing instruction or imposing a requirement as to the location of where a treatment takes place or the provider who will perform the treatment. This measure prohibits a vendor, provider, or group within the medical provider from being preferentially cited on an authorization or certification and would require the Administrative Director or the Division of Workers' Compensation to impose a fine of $10,000 per authorization or certification that preferentially directs care within a medical provider network.

This measure requires all treatment authorization or certification, adjuster correspondence, or billing explanation of review or explanation of benefits to include the medical provider network identification number, medical provider network name, and the name of the network covering the claimant provided in that correspondence. This measure would require the Administrative Director to fine a medical provider network $5,000 per document that fails to include required network information.

This measure requires the administrative director to maintain a written record of compliance and approval for all plans and modifications and to approve the plan or modification in writing and with attestation of compliance. This measure would require the Administrative Director to fine a medical provider network $50,000 per occurrence, and to fine a carrier utilizing a medical network $50,000, if the administrative director determines that a medical provider network failed to meet the access standard for a given specialty and denied an injured worker the right to seek care outside of the medical provider network.

This measure also requires the Administrative Director to adopt a medical fee schedule establishing reasonable minimum fees paid for medical services other than physician services, drug and pharmacy services, health care facility fees, home care facility fees, home health care, and all other treatment care, services, and goods. This measure would prohibit an insurance carrier, agent, or third-party contracting entity from contracting with providers of medical services for rates less than the official medical fee schedule adopted by the Administrative Director.

This measure requires a provider to be reimbursed with all fees associated with the filing of the review if that provider is found to be owed additional reimbursement by an independent medical review organization. This measure further requires that if the reimbursement is not made, a penalty of $1,000 per month will accrue. This measure requires that if a prospective or concurrent decision of a request for authorization is not made within 5 days from transmission of the request for authorization, or if a final decision is not properly communicated, as specified, that the request for authorization be presumed authorized.

This measure requires the administrative director, no later than January 1, 2022, to ensure that the Electronic Adjudication Management System (EAMS) contains the medical provider network identification number for each injured worker contained in EAMS. This measure requires the administrative director, by July 1, 2022, to report to the Legislature on the status of the EAMS requirement.

This measure gives a provider the right to file a petition for determination of non-independent bill review for matters not eligible for independent bill review. This measure requires a defendant to be deemed to have waived all objections to a providers billing, if one of 2 conditions occurs. This measure requires that a defendant be liable for a fee of not less than $500 if the workers compensation appeals board determines that the defendant failed to comply with various requirements as a result of bad faith or tactics.

This measure requires that a provider be liable for a fee of not less than $500 if the workers compensation appeals board determines that the provider improperly asserted that a defendant failed to comply with requirements.

Outlook: Pursuant to Joint Rule 51(b)(3), the legislature has recessed until sine die adjournment on November 30. Both chambers are next scheduled to convene on December 7, 2020, the start of the 2021-2022 Legislative Session. This measure is unlikely to receive further consideration.

Bill Links: 5/4/2020 Version

NEBRASKA

LB 487

Actions:
08/13/2020 Failed upon adjournment
05/31/2019 Carried over to 2020 Legislative Session
03/04/2019 Hearing held
01/24/2019 Referred to Business and Labor Committee
01/22/2019 Introduced

Summary: Summary for 1/22/2019 Version

This measure permits the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary consisting of prescription drugs listed in Schedules II, III, IV and V. The formulary will apply to prescription drugs that are prescribed and dispensed for outpatient use in connection with workers' compensation claims with a date of injury on or after January 1, 2018.

A prescription drug included in the formulary adopted by the compensation court and

recommended may be prescribed and dispensed without obtaining prior authorization from the workers' compensation insurer, risk management pool or self-insured employer.

A prescription drug not included in the formulary adopted by the compensation court or that is included but not recommended is presumed to be reasonable if prior authorization for such drugs is obtained from the workers' compensation insurer, risk management pool or self-insured employer.

The measure requires the compensation court to consult with stakeholders regarding the adoption of a drug formulary. The stakeholders should include employers, insurers, private sector employee representatives, public sector employee representatives, treating physicians actively practicing medicine, pharmacists, and attorneys representing injured workers or employers.

Any party may request a finding by an independent medical examiner if the workers' compensation insurer, risk management pool or self-insured employer denies payment for a prescription drug that is not included in the formulary adopted by the compensation court or that is included but not recommended in such formulary or if prior authorization is denied.

The compensation court may adopt and promulgate rules and regulations necessary to implement this provision.

Outlook: This measure failed upon the adjournment of the Nebraska Legislature on August 13. The measure is ineligible for further consideration.

Bill Links: 1/22/2019 Version

PENNSYLVANIA

SB 594

Actions:

09/29/2020	Hearing scheduled
05/28/2020	Received in House; Referred to House Labor and Industry Committee
05/27/2020	Passed Senate
04/28/2020	Hearing held; Passed Senate Appropriations Committee
11/21/2019	Referred to Senate Appropriations Committee
11/18/2019	Amended; Passed Senate Labor and Industry Committee
04/29/2019	Introduced; Referred to Senate Labor and Industry Committee

Summary: Summary for 11/18/2019 Version

This measure allows an insured employer to make an application to the department for the certification of any established safety committee operative within its workplace developed

for the purpose of providing information regarding the risks associated with opioid painkiller use. The Department will develop resources for employers to comply with the requirements laid out by this measure.

Outlook: This measure will be heard by the House Labor and Industry Committee on September 29, 2020. The hearing will be open to the public and testimony will be accepted at the discretion of the Chair, Rep. Jim Cox (R). A vote may occur at the discretion of the Chair.

Bill Links: 11/18/2019 Version
4/29/2019 Version