

ASSEMBLY BILL

No. 2068

Introduced by Assembly Member Nava

February 16, 2006

An act to amend Section 4600 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2068, as introduced, Nava. Workers' compensation: designation of physician.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law, until April 30, 2007, provides an employee with the right to be treated by his or her personal physician from the date of injury if specified conditions are met. Existing law limits the maximum percentage of employees who are covered by this provision of law that may be predesignated in the state to 7%.

This bill would delete the April 30, 2007, repeal date and the limit on the maximum percentage of employees that may be predesignated.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares, based on
- 2 published research, that the results of medical treatment by
- 3 physicians who have previously cared for the employee prior to
- 4 the injury are comparable to the results of medical treatment by

1 physicians chosen by employers or insurers, and that the right of
2 an employee to designate a personal physician should not be
3 permitted to expire on April 30, 2007.

4 SEC. 2. Section 4600 of the Labor Code is amended to read:

5 4600. (a) Medical, surgical, chiropractic, acupuncture, and
6 hospital treatment, including nursing, medicines, medical and
7 surgical supplies, crutches, and apparatus, including orthotic and
8 prosthetic devices and services, that is reasonably required to
9 cure or relieve the injured worker from the effects of his or her
10 injury shall be provided by the employer. In the case of his or her
11 neglect or refusal reasonably to do so, the employer is liable for
12 the reasonable expense incurred by or on behalf of the employee
13 in providing treatment.

14 (b) As used in this division and notwithstanding any other
15 provision of law, medical treatment that is reasonably required to
16 cure or relieve the injured worker from the effects of his or her
17 injury means treatment that is based upon the guidelines adopted
18 by the administrative director pursuant to Section 5307.27 or,
19 prior to the adoption of those guidelines, the updated American
20 College of Occupational and Environmental Medicine's
21 Occupational Medicine Practice Guidelines.

22 (c) Unless the employer or the employer's insurer has
23 established a medical provider network as provided for in Section
24 4616, after 30 days from the date the injury is reported, the
25 employee may be treated by a physician of his or her own choice
26 or at a facility of his or her own choice within a reasonable
27 geographic area.

28 (d) (1) If an employee has notified his or her employer in
29 writing prior to the date of injury that he or she has a personal
30 physician, the employee shall have the right to be treated by that
31 physician from the date of injury if either of the following
32 conditions exist:

33 (A) The employer provides nonoccupational group health
34 coverage in a health care service plan, licensed pursuant to
35 Chapter 2.2 (commencing with Section 1340) of Division 2 of
36 the Health and Safety Code.

37 (B) The employer provides nonoccupational health coverage
38 in a group health plan or a group health insurance policy as
39 described in Section 4616.7.

1 (2) For purposes of paragraph (1), a personal physician shall
2 meet all of the following conditions:

3 (A) The physician is the employee's regular physician and
4 surgeon, licensed pursuant to Chapter 5 (commencing with
5 Section 2000) of Division 2 of the Business and Professions
6 Code.

7 (B) The physician is the employee's primary care physician
8 and has previously directed the medical treatment of the
9 employee, and who retains the employee's medical records,
10 including his or her medical history.

11 (C) The physician agrees to be predesignated.

12 (3) If the employer provides nonoccupational health care
13 pursuant to Chapter 2.2 (commencing with Section 1340) of
14 Division 2 of the Health and Safety Code, and the employer is
15 notified pursuant to paragraph (1), all medical treatment,
16 utilization review of medical treatment, access to medical
17 treatment, and other medical treatment issues shall be governed
18 by Chapter 2.2 (commencing with Section 1340) of Division 2 of
19 the Health and Safety Code. Disputes regarding the provision of
20 medical treatment shall be resolved pursuant to Article 5.55
21 (commencing with Section 1374.30) of Chapter 2.2 of Division 2
22 of the Health and Safety Code.

23 (4) If the employer provides nonoccupational health care, as
24 described in Section 4616.7, all medical treatment, utilization
25 review of medical treatment, access to medical treatment, and
26 other medical treatment issues shall be governed by the
27 applicable provisions of the Insurance Code.

28 (5) The insurer may require prior authorization of any
29 nonemergency treatment or diagnostic service and may conduct
30 reasonably necessary utilization review pursuant to Section 4610.

31 ~~(6) The maximum percentage of all employees who are
32 covered under paragraph (1) that may be predesignated at any
33 time in the state is 7 percent.~~

34 ~~(7)~~

35 (6) If any court finds that any portion of this subdivision is
36 invalid or in violation of any state or federal law, then this
37 subdivision shall be inoperative.

38 ~~(8)~~

1 (7) The division shall conduct an evaluation of this program
2 and present its findings to the Governor and the Legislature on or
3 before March 1, 2006.

4 ~~(9) This subdivision shall remain in effect only until April 30,~~
5 ~~2007, and as of that date is repealed, unless a later enacted~~
6 ~~statute, that is enacted before April 30, 2007, deletes or extends~~
7 ~~that date.~~

8 (e) (1) When at the request of the employer, the employer’s
9 insurer, the administrative director, the appeals board, or a
10 workers’ compensation administrative law judge, the employee
11 submits to examination by a physician, he or she shall be entitled
12 to receive, in addition to all other benefits herein provided, all
13 reasonable expenses of transportation, meals, and lodging
14 incident to reporting for the examination, together with one day
15 of temporary disability indemnity for each day of wages lost in
16 submitting to the examination.

17 (2) Regardless of the date of injury, “reasonable expenses of
18 transportation” includes mileage fees from the employee’s home
19 to the place of the examination and back at the rate of twenty-one
20 cents (\$0.21) a mile or the mileage rate adopted by the Director
21 of the Department of Personnel Administration pursuant to
22 Section 19820 of the Government Code, whichever is higher,
23 plus any bridge tolls. The mileage and tolls shall be paid to the
24 employee at the time he or she is given notification of the time
25 and place of the examination.

26 (f) When at the request of the employer, the employer’s
27 insurer, the administrative director, the appeals board, or a
28 workers’ compensation administrative law judge, an employee
29 submits to examination by a physician and the employee does not
30 proficiently speak or understand the English language, he or she
31 shall be entitled to the services of a qualified interpreter in
32 accordance with conditions and a fee schedule prescribed by the
33 administrative director. These services shall be provided by the
34 employer. For purposes of this section, “qualified interpreter”
35 means a language interpreter certified, or deemed certified,
36 pursuant to Article 8 (commencing with Section 11435.05) of
37 Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566
38 of, the Government Code.

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