

Introduced by Senator PadillaFebruary 20, 2007

An act to amend Section 4604.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 352, as introduced, Padilla. Workers' compensation: medical treatment utilization schedule.

Existing workers' compensation law 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 requires the Administrative Director of the Division of Workers' Compensation to adopt a medical treatment utilization schedule, containing specified guidelines covering the extent and scope of medical treatment to be provided to an injured employee. Existing law specifies that, notwithstanding the medical treatment utilization schedule or other specified medical practice guidelines, for injuries occurring on and after January 1, 2004, an employee is entitled to no more than 24 chiropractic, 24 occupational therapy, and 24 physical therapy visits per industrial injury, except when an employer authorizes, in writing, additional visits to a health care practitioner for physical medicine services.

This bill would exempt from the above-described limits on chiropractic, occupational therapy, and physical therapy visits specified employees of a sheriff's office or police or fire department, peace officers, and active firefighters.

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

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

1 SECTION 1. Section 4604.5 of the Labor Code is amended to
2 read:

3 4604.5. (a) Upon adoption by the administrative director of a
4 medical treatment utilization schedule pursuant to Section 5307.27,
5 the recommended guidelines set forth in the schedule shall be
6 presumptively correct on the issue of extent and scope of medical
7 treatment. The presumption is rebuttable and may be controverted
8 by a preponderance of the scientific medical evidence establishing
9 that a variance from the guidelines is reasonably required to cure
10 or relieve the injured worker from the effects of his or her injury.
11 The presumption created is one affecting the burden of proof.

12 (b) The recommended guidelines set forth in the schedule
13 adopted pursuant to subdivision (a) shall reflect practices that are
14 evidence and scientifically based, nationally recognized, and
15 peer-reviewed. The guidelines shall be designed to assist providers
16 by offering an analytical framework for the evaluation and
17 treatment of injured workers, and shall constitute care in
18 accordance with Section 4600 for all injured workers diagnosed
19 with industrial conditions.

20 (c) Three months after the publication date of the updated
21 American College of Occupational and Environmental Medicine's
22 Occupational Medicine Practice Guidelines, and continuing until
23 the effective date of a medical treatment utilization schedule,
24 pursuant to Section 5307.27, the recommended guidelines set forth
25 in the American College of Occupational and Environmental
26 Medicine's Occupational Medicine Practice Guidelines shall be
27 presumptively correct on the issue of extent and scope of medical
28 treatment, regardless of date of injury. The presumption is
29 rebuttable and may be controverted by a preponderance of the
30 evidence establishing that a variance from the guidelines is
31 reasonably required to cure and relieve the employee from the
32 effects of his or her injury, in accordance with Section 4600. The
33 presumption created is one affecting the burden of proof.

34 (d) (1) Notwithstanding the medical treatment utilization
35 schedule or the guidelines set forth in the American College of
36 Occupational and Environmental Medicine's Occupational
37 Medicine Practice Guidelines, for injuries occurring on and after
38 January 1, 2004, an employee shall be entitled to no more than 24

1 chiropractic, 24 occupational therapy, and 24 physical therapy
2 visits per industrial injury.

3 (2) This subdivision shall not apply when an employer
4 authorizes, in writing, additional visits to a health care practitioner
5 for physical medicine services. *This subdivision shall also not*
6 *apply to an injured worker who is an employee of a sheriff's office,*
7 *of a police or fire department of a city, county, city and county,*
8 *district, or other public or municipal corporations or political*
9 *subdivisions, is an individual described in Chapter 4.5*
10 *(commencing with Section 830) of Title 3 of Part 2 of the Penal*
11 *Code, regardless of volunteer, partly paid, or paid status, or is an*
12 *active firefighting member of the Department of Forestry and Fire*
13 *Protection, or of any county forestry or firefighting department or*
14 *unit, regardless of volunteer, partly paid, or paid status, unless*
15 *the injured worker's principal duties are clerical or otherwise do*
16 *not clearly fall within the scope of active law enforcement service*
17 *or active firefighting service, such as stenographers, telephone*
18 *operators, and other office workers.*

19 (e) For all injuries not covered by the American College of
20 Occupational and Environmental Medicine's Occupational
21 Medicine Practice Guidelines or official utilization schedule after
22 adoption pursuant to Section 5307.27, authorized treatment shall
23 be in accordance with other evidence based medical treatment
24 guidelines generally recognized by the national medical community
25 and that are scientifically based.

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