

Introduced by Senator Migden

February 20, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as introduced, Migden. Workers' compensation: medical treatment: predesignation 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 December 31, 2009, provides an employee with the right to be treated by his or her personal physician from the date of injury if specified requirements are met, including a requirement that the physician agrees to be predesignated.

This bill would delete the December 31, 2009, repeal date for those provisions pertaining to an employee's predesignation of a personal physician.

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. Section 4600 of the Labor Code is amended to
- 2 read:
- 3 4600. (a) Medical, surgical, chiropractic, acupuncture, and
- 4 hospital treatment, including nursing, medicines, medical and
- 5 surgical supplies, crutches, and apparatuses, including orthotic and
- 6 prosthetic devices and services, that is reasonably required to cure

1 or relieve the injured worker from the effects of his or her injury
2 shall be provided by the employer. In the case of his or her neglect
3 or refusal reasonably to do so, the employer is liable for the
4 reasonable expense incurred by or on behalf of the employee in
5 providing treatment.

6 (b) As used in this division and notwithstanding any other
7 provision of law, medical treatment that is reasonably required to
8 cure or relieve the injured worker from the effects of his or her
9 injury means treatment that is based upon the guidelines adopted
10 by the administrative director pursuant to Section 5307.27 or, prior
11 to the adoption of those guidelines, the updated American College
12 of Occupational and Environmental Medicine's Occupational
13 Medicine Practice Guidelines.

14 (c) Unless the employer or the employer's insurer has
15 established a medical provider network as provided for in Section
16 4616, after 30 days from the date the injury is reported, the
17 employee may be treated by a physician of his or her own choice
18 or at a facility of his or her own choice within a reasonable
19 geographic area.

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

25 (A) The employer provides nonoccupational group health
26 coverage in a health care service plan, licensed pursuant to Chapter
27 2.2 (commencing with Section 1340) of Division 2 of the Health
28 and Safety Code.

29 (B) The employer provides nonoccupational health coverage in
30 a group health plan or a group health insurance policy as described
31 in Section 4616.7.

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

34 (A) The physician is the employee's regular physician and
35 surgeon, licensed pursuant to Chapter 5 (commencing with Section
36 2000) of Division 2 of the Business and Professions Code.

37 (B) The physician is the employee's primary care physician and
38 has previously directed the medical treatment of the employee,
39 and who retains the employee's medical records, including his or
40 her medical history. "Personal physician" includes a medical group,

1 if the medical group is a single corporation or partnership
2 composed of licensed doctors of medicine or osteopathy, which
3 operates an integrated multispecialty medical group providing
4 comprehensive medical services predominantly for
5 nonoccupational illnesses and injuries.

6 (C) The physician agrees to be predesignated.

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

18 (4) If the employer provides nonoccupational health care, as
19 described in Section 4616.7, all medical treatment, utilization
20 review of medical treatment, access to medical treatment, and other
21 medical treatment issues shall be governed by the applicable
22 provisions of the Insurance Code.

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

26 (6) An employee shall be entitled to all medically appropriate
27 referrals by the personal physician to other physicians or medical
28 providers within the nonoccupational health care plan. An
29 employee shall be entitled to treatment by physicians or other
30 medical providers outside of the nonoccupational health care plan
31 pursuant to standards established in Article 5 (commencing with
32 Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety
33 Code.

34 (7) The division shall conduct an evaluation of this program
35 and present its findings to the Governor and the Legislature on or
36 before December 31, 2008.

37 ~~(8) This subdivision shall remain in effect only until December~~
38 ~~31, 2009, and as of that date is repealed, unless a later enacted~~
39 ~~statute that is enacted before December 31, 2009, deletes or extends~~
40 ~~that date.~~

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

10 (2) Regardless of the date of injury, "reasonable expenses of
11 transportation" includes mileage fees from the employee's home
12 to the place of the examination and back at the rate of twenty-one
13 cents (\$0.21) a mile or the mileage rate adopted by the Director
14 of the Department of Personnel Administration pursuant to Section
15 19820 of the Government Code, whichever is higher, plus any
16 bridge tolls. The mileage and tolls shall be paid to the employee
17 at the time he or she is given notification of the time and place of
18 the examination.

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