

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2749**

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**Introduced by Assembly Members Logue and Norby**

February 19, 2010

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An act to amend Section 4903.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2749, as amended, Logue. Workers' compensation: lien claims.

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, and in the course of, employment. Existing law authorizes a medical provider to file a lien claim with the Workers' Compensation Appeals Board for certain expenses incurred by the provider.

Existing law prohibits lien claims for expenses incurred by or on behalf of the injured employee, as provided, and, to the extent that the employee is entitled to reimbursement, as specified, for medical-legal expenses, from being filed after 6 months from the date on which the appeals board or workers' compensation administrative law judge issues a final decision, findings, order, or award on the merits of the claim, after 5 years from the date of the injury for which the services were provided, or after one year from the date the services were provided, whichever is later.

~~This bill would, instead, prohibit lien claims for the above-described expenses from being filed one year from the date the services were~~

provided. The bill would prohibit lien claims for expenses incurred for providing inpatient medical services from being filed after 6 months from the date the provider of those services knew or should have known the inpatient services were for treating an industrial injury.

This bill would require employers or employers' insurance carriers to include a benefit notice with any objection to a bill for medical services or an explanation of benefits that advises the provider of those services or benefits of the above-described deadline for filing lien claims and the consequences of failing to meet that deadline.

~~This bill would require the above-described lien claims to be accompanied by certain documentation, including the original bill or bills for the services. The bill would provide that if the lien claim does not include the documentation, it shall be rejected, shall not receive further consideration, and that notice shall be provided to all parties of record that the lien claimant did not meet the documentation requirements and that the lien claim has been rejected.~~

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

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

1 SECTION 1. Section 4903.5 of the Labor Code is amended to  
2 read:

3 4903.5. (a) ~~(1) Except as provided in paragraph (2), no~~ *No*  
4 *lien claim for expenses as provided in subdivision (b) of Section*  
5 *4903 may be filed after six months from the date on which the*  
6 *appeals board or a workers' compensation administrative law*  
7 *judge issues a final decision, findings, order, including an order*  
8 *approving compromise and release, or award, on the merits of the*  
9 *claim, after five years from the date of the injury for which the*  
10 *services were provided, or after one year from the date the services*  
11 *were provided, whichever is later.*

12 ~~(2) No lien claim for expenses incurred for providing inpatient~~  
13 ~~medical services may be filed after six months from the date the~~  
14 ~~provider of those services knew or should have known the inpatient~~  
15 ~~services were for treating an industrial injury.~~

16 (b) Notwithstanding subdivision (a), any health care provider,  
17 health care service plan, group disability insurer, employee benefit  
18 plan, or other entity providing medical benefits on a nonindustrial  
19 basis, may file a lien claim for expenses as provided in subdivision

1 (b) of Section 4903 within six months after the person or entity  
2 first has knowledge that an industrial injury is being claimed.

3 (c) The injured worker shall not be liable for any underlying  
4 obligation if a lien claim has not been filed and served within the  
5 allowable period. Except when the lien claimant is the applicant  
6 as provided in Section 5501, a lien claimant shall not file a  
7 declaration of readiness to proceed in any case until the  
8 case-in-chief has been resolved.

9 (d) This section shall not apply to civil actions brought under  
10 the Cartwright Act (Chapter 2 (commencing with Section 16700)  
11 of Part 2 of Division 7 of the Business and Professions Code), the  
12 Unfair Practices Act (Chapter 4 (commencing with Section 17000)  
13 of Part 2 of Division 7 of the Business and Professions Code), or  
14 the federal Racketeer Influenced and Corrupt Organization Act  
15 (Chapter 96 (commencing with Section 1961) of Title 18 of the  
16 United States Code) based on concerted action with other insurers  
17 that are not parties to the case in which the lien or claim is filed.

18 (e) Employers or employers' insurance carriers shall include a  
19 benefit notice with any objection to a bill for medical services or  
20 an explanation of benefits that advises the provider of those  
21 services or benefits of the deadline for filing lien claims described  
22 in subdivision (a) and the consequences of failing to meet that  
23 deadline.

24 ~~(f) (1) A lien claimant filing a claim for expenses as provided~~  
25 ~~in subdivision (b) of Section 4903 shall include the following~~  
26 ~~documentation with the lien claim:~~

27 ~~(A) The original bill or bills for the services for which the lien~~  
28 ~~claim is being filed. Ledger or billing payment histories shall not~~  
29 ~~be sufficient for purposes of complying with this subparagraph.~~

30 ~~(B) A statement stating that the expenses for which the lien~~  
31 ~~claim is being made were incurred for services authorized by the~~  
32 ~~employer or, if the expenses were not authorized by the employer,~~  
33 ~~that the expenses were for services justified for another specified~~  
34 ~~reason.~~

35 ~~(C) Certification that the lien claim complies with applicable~~  
36 ~~statutes and rules.~~

37 ~~(2) If a lien claim for expenses as provided in subdivision (b)~~  
38 ~~of Section 4903 does not include the documentation required by~~  
39 ~~paragraph (1), all of the following shall occur:~~

40 ~~(A) The lien claim shall be rejected.~~

- 1 ~~(B) The lien claim shall receive no further consideration.~~
- 2 ~~(C) Notice shall be provided to all parties of record that the lien~~
- 3 ~~claimant did not meet the requirements under this subdivision and~~
- 4 ~~that the lien claim has been rejected.~~

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