

Introduced by Senator MendozaJanuary 26, 2016

An act to amend Section 4616.4 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 914, as introduced, Mendoza. Workers' compensation: medical provider networks: independent medical reviews.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees, and requires the administrative director to contract with individual physicians or an independent medical review organization to perform medical provider network independent medical reviews. Existing law provides that if a treatment or diagnostic service remains disputed after a 3rd physician's opinion, the injured employee may request a medical provider network independent medical review. Existing law requires the review to use standards established in statute or use the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines.

This bill would delete the authorization to use the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines as standards for those independent medical reviews. The bill would make additional technical, nonsubstantive changes.

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 4616.4 of the Labor Code is amended to
2 read:

3 4616.4. (a) (1) The administrative director shall contract with
4 individual physicians, as described in paragraph (2), or an
5 independent medical review organization to perform medical
6 provider network (MPN) independent medical reviews pursuant
7 to this section.

8 (2) Only ~~physicians~~ *a physician* licensed pursuant to Chapter 5
9 (commencing with Section 2000) of the Business and Professions
10 Code may be *an* MPN independent medical ~~reviewers~~ *reviewer*.

11 (3) The administrative director shall ensure that ~~the~~ *an* MPN
12 independent medical ~~reviewers~~ *reviewer* or those within the review
13 organization shall do all of the following:

14 (A) Be appropriately credentialed and privileged.

15 (B) Ensure that the reviews provided by the medical
16 professionals are timely, clear, and credible, and that reviews are
17 monitored for quality on an ongoing basis.

18 (C) Ensure that the method of selecting medical professionals
19 for individual cases achieves a fair and impartial panel of medical
20 professionals who are qualified to render recommendations
21 regarding the clinical conditions consistent with the medical
22 utilization schedule established pursuant to Section 5307.27.

23 (D) Ensure that confidentiality of medical records and the review
24 materials, consistent with the requirements of this section and
25 applicable state and federal law.

26 (E) Ensure the independence of the medical professionals
27 retained to perform the reviews through conflict-of-interest policies
28 and prohibitions, and ensure adequate screening for conflicts of
29 interest.

30 (4) ~~Medical professionals~~ *A medical professional* selected by
31 the administrative director or the independent medical review
32 organization to review medical treatment decisions shall be
33 ~~physicians, a physician~~, as specified in paragraph (2) of subdivision
34 (a), who ~~meet~~ *meets* the following minimum requirements:

35 (A) The medical professional shall be a clinician knowledgeable
36 in the treatment of the employee's medical condition,
37 knowledgeable about the proposed treatment, and familiar with
38 guidelines and protocols in the area of treatment under review.

1 (B) Notwithstanding any other law, the medical professional
2 shall hold a nonrestricted license in any state of the United States,
3 and for ~~physicians~~, *a physician*, a current certification by a
4 recognized American medical specialty board in the area or areas
5 appropriate to the condition or treatment under review.

6 (C) The medical professional shall have no history of
7 disciplinary action or sanctions, including, but not limited to, loss
8 of staff privileges or participation restrictions taken or pending by
9 any hospital, government, or regulatory body.

10 (b) If, after the third physician’s opinion, the treatment or
11 diagnostic service remains disputed, the injured employee may
12 request *an* MPN independent medical review regarding the disputed
13 treatment or diagnostic service still in dispute after the third
14 physician’s opinion in accordance with Section 4616.3. The
15 standard to be utilized for *an* MPN independent medical review
16 is identical to that contained in the medical treatment utilization
17 schedule established in Section ~~5307.27~~, or the American College
18 of Occupational and Environmental Medicine’s Occupational
19 Medicine Practice Guidelines, as appropriate. 5307.27.

20 (c) ~~Applications~~—*An application* for *an* MPN independent
21 medical review shall be submitted to the administrative director
22 on a one-page form provided by the administrative director entitled
23 “MPN Independent Medical Review Application.” The form shall
24 contain a signed release from the injured employee, or a person
25 authorized pursuant to law to act on behalf of the injured employee,
26 authorizing the release of medical and treatment information. The
27 injured employee may provide any relevant material or
28 documentation with the application. The administrative director
29 or the independent medical review organization shall assign the
30 MPN independent medical reviewer.

31 (d) Following receipt of the application for *an* MPN independent
32 medical review, the employer or insurer shall provide the MPN
33 independent medical reviewer, assigned pursuant to subdivision
34 (c), with all information that was considered in relation to the
35 disputed treatment or diagnostic service, including both of the
36 following:

37 (1) A copy of all correspondence from, and received by, any
38 treating physician who provided a treatment or diagnostic service
39 to the injured employee in connection with the injury.

1 (2) A complete and legible copy of all medical records and other
2 information used by the physicians in making a decision regarding
3 the disputed treatment or diagnostic service.

4 (e) Upon receipt of information and documents related to the
5 application for *an* MPN independent medical review, the MPN
6 independent medical reviewer shall conduct a physical examination
7 of the injured employee at the employee's discretion. The MPN
8 independent medical reviewer may order any diagnostic tests
9 necessary to make his or her determination regarding medical
10 treatment. Utilizing the medical treatment utilization schedule
11 established pursuant to Section 5307.27, ~~or the American College~~
12 ~~of Occupational and Environmental Medicine's Occupational~~
13 ~~Medicine Practice Guidelines, as appropriate,~~ and taking into
14 account any reports and information provided, the MPN
15 independent medical reviewer shall determine whether the disputed
16 health care service was consistent with Section 5307.27 ~~or the~~
17 ~~American College of Occupational and Environmental Medicine's~~
18 ~~Occupational Medicine Practice Guidelines~~ based on the specific
19 medical needs of the injured employee.

20 (f) The MPN independent medical reviewer shall issue a report
21 to the administrative director, in writing, and in layperson's terms
22 to the maximum extent practicable, containing his or her analysis
23 and determination whether the disputed health care service was
24 consistent with the medical treatment utilization schedule
25 established pursuant to Section 5307.27, ~~or the American College~~
26 ~~of Occupational and Environmental Medicine's Occupational~~
27 ~~Medicine Practice Guidelines, as appropriate,~~ within 30 days of
28 the examination of the injured employee, or within less time as
29 prescribed by the administrative director. If the disputed health
30 care service has not been provided and the MPN independent
31 medical reviewer certifies in writing that an imminent and serious
32 threat to the health of the injured employee may exist, including,
33 but not limited to, serious pain, the potential loss of life, limb, or
34 major bodily function, or the immediate and serious deterioration
35 of the injured employee, the report shall be expedited and rendered
36 within three days of the examination by the MPN independent
37 medical reviewer. Subject to the approval of the administrative
38 director, the deadlines for analyses and determinations involving
39 both regular and expedited reviews may be extended by the

1 administrative director for up to three days in extraordinary
2 circumstances or for good cause.

3 (g) The MPN independent medical reviewer’s analysis shall
4 cite the injured employee’s medical condition, the relevant
5 documents in the record, and the relevant findings associated with
6 the documents or any other information submitted to the MPN
7 independent medical reviewer in order to support the determination.

8 (h) The administrative director shall immediately adopt the
9 determination of the MPN independent medical reviewer, and shall
10 promptly issue a written decision to the parties.

11 (i) If the determination of the MPN independent medical
12 reviewer finds that the disputed treatment or diagnostic service is
13 consistent with ~~Section 5307.27 or the American College of~~
14 ~~Occupational and Environmental Medicine’s Occupational~~
15 ~~Medicine Practice Guidelines, 5307.27~~, the injured employee may
16 seek the disputed treatment or diagnostic service from a physician
17 of his or her choice from within or outside the medical provider
18 network. Treatment outside the medical provider network shall be
19 provided consistent with ~~Section 5307.27 or the American College~~
20 ~~of Occupational and Environmental Medicine’s Occupational~~
21 ~~Practice Guidelines, 5307.27~~. The employer shall be liable for the
22 cost of any approved medical treatment in accordance with Section
23 5307.1 or 5307.11.

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