

HOUSE BILL REPORT

HB 1871

As Reported By House Committee On:
Commerce & Labor
Appropriations

Title: An act relating to chiropractic care for industrial insurance.

Brief Description: Regulating chiropractic care for industrial insurance.

Sponsors: Representatives Heavey, Kessler and Lemmon.

Brief History:

Reported by House Committee on:
Commerce & Labor, March 2, 1993, DPS;
Appropriations, March 6, 1993, DPS(CL-A APP).

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer; and Veloria.

Staff: Chris Cordes (786-7117).

Background: Under the industrial insurance law, an injured worker is entitled to proper and necessary medical care from a physician of the worker's choice. The Department of Labor and Industries' administrative rules define "physician" as a person licensed to practice medicine or osteopathic medicine. The rules also define "doctor" to include persons licensed to practice medicine, osteopathic medicine, chiropractic, drugless therapeutics, podiatry, dentistry, and optometry. Doctors are authorized to sign accident reports forms for injured workers and temporary disability authorization forms. Only physicians licensed to practice medicine may examine injured workers to determine the extent of a worker's permanent impairment.

Within the Health and Rehabilitation Services section of the department's Industrial Insurance Division is an Office of the Medical Director. The department has established several health care provider advisory committees, including

a Chiropractic Advisory Committee to advise the department on such issues as establishing standards for effective and accepted chiropractic treatment and consultant reviews, and reviewing the performance of individual chiropractors.

The department is authorized to establish maximum fee schedules for physicians, surgeons, hospitals, druggists, physician assistants, and other providers. In establishing fee schedules, the department is required to consider its duty to purchase health care in a prudent, cost-effective manner without unduly restricting access to necessary care. The department's fee schedules are coordinated with other agencies that make payments to health care providers.

The department is authorized to conduct audits of health services providers and to examine patient records during the audit, to approve or deny applications to participate as a provider of services, and to terminate or suspend eligibility to participate as a provider of services.

Summary of Substitute Bill: Chiropractic care must be available to injured workers under the industrial insurance system. The care given must be within the scope of practice for chiropractic care, may include only treatment until the worker reaches preaccident status or maximum medical improvement, and may not include maintenance care or wellness care.

In appropriate cases within the chiropractic scope of practice, chiropractors must be included as health care providers who are authorized to recommend closure of a claim, to determine the necessity and appropriateness of care, and to examine workers for determination of permanent disability.

The department is directed to establish treatment and utilization standards for chiropractic treatment, such as standards to assure quality treatment, to contain costs, and to establish time lines for review of the injured worker's progress. Initial reviews under the time lines must be performed by a chiropractor and panel of chiropractors.

The director must appoint an assistant director for chiropractic treatment. The assistant director must be a licensed chiropractor who will serve as the department's liaison between the department and the chiropractic profession, provide consultation to claims staff, develop the treatment and utilization standards, and monitor research and treatment developments in the profession.

The department is authorized to conduct audits and investigations of providers of chiropractic care. In

conducting the audits, the department is directed to examine records and, as appropriate, conduct interviews. The department is also authorized to deny or reduce payment or to demand reimbursement or recoupment if payments to providers were made in violation of the department's rules and maximum fee schedules. Demands for repayments of payments determined to be made for unnecessary care are not payable until appeals are concluded. If the payment was induced by fraud, the department may terminate the provider or suspend eligibility of the provider to provide services to injured workers.

Substitute Bill Compared to Original Bill: The substitute bill makes the following changes to the original bill:

- (1) The requirement to use chiropractors in recommending closure of claims and determining disability is amended to clarify that the cases must be within the chiropractic scope of practice. The requirement to use chiropractors also includes issues in determining the necessity and appropriateness of chiropractic care.
- (2) The provision is deleted that authorized the chiropractor to determine the necessity and appropriateness of the care given to an injured worker when a chiropractic evaluation of a worker is done.
- (3) The requirement is deleted that maximum fee schedule for chiropractors must be based on the usual and customary charges.
- (4) A requirement is added that the utilization and treatment standards for reviewing an injured worker's progress must be consistent with sound management policy and budgetary discretion.
- (5) The requirement is deleted that the Chiropractic Peer Review Committee under the Disciplinary Board should be used when conducting audits of a chiropractor.
- (6) The requirement for conducting patient interviews during an audit is modified to require interviews "as appropriate."

Fiscal Note: Requested February 22, 1993.

Effective Date Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill creates standards for chiropractors that other health care professionals treating injured workers do not have. For example, the maximum fee schedule for other providers is not based on usual and customary charges. Some of the issues in the bill are very costly. Other issues in the bill are already covered by current Department of Labor and Industries programs. The department is also requesting in the budget a new position for an associate medical director for chiropractic. Requiring the

department to conduct interviews with injured workers during an audit process will cause delays and unnecessarily burden both the workers and the department auditors. Reviews of health care providers must be broad to ensure the best care for workers. If the bill allows unlimited treatment, it raises a serious concern about the impacts on the industrial insurance system.

Testimony Against: Chiropractors should be recognized as providers of health care for injured workers. The ongoing dispute with the department over the provision of chiropractic care should be settled. This can be accomplished by creating a structure in the statute for dealing with chiropractic care issues. The bill was not intended to expand the scope of practice or to cause a large fiscal impact for the department. The department's current attempts to manage chiropractic care have failed and have resulted in costly litigation. The attempts at cost containment have reduced health care choices for injured workers. The department does not recognize the cost-effective nature of chiropractic care.

Witnesses: (In favor): Steve Wehrly, John Peich, and Goeffrey Masci, Washington Chiropractic Association; and Representative Tom Campbell. (Opposed): Linda Murphy, Department of Labor and Industries; Charles Hill; and Tim Reid.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass. Signed by 22 members: Representatives Locke, Chair; Valle, Vice Chair; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Jacobsen; Lemmon; Linville; Peery; Rust; Sehlin; Sommers; Stevens; Wang; Wineberry; and Wolfe.

Minority Report: Do not pass. Signed by 2 members: Representatives Silver, Ranking Minority Member and Sheahan.

Staff: Wayne Kawakami (786-7384).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Commerce & Labor: The requirement that a licensed chiropractor be included for closure of claims in cases within the chiropractic scope of practice becomes optional. The language relating to the type of care that may be provided to injured workers by chiropractors is deleted. The deleted language would have

limited care to the treatment of conditions until the worker reached preaccident status and would have prohibited wellness care. The care must be within the scope of chiropractic practice. The development of utilization standards for chiropractic treatment is changed from mandatory to optional. Language is deleted that prohibits standards that terminate treatment after a stated number of treatments. The director appointee position is changed from an assistant director to an associate director. The Department of Labor and Industries' authority for audits or investigations of all pertinent records and interviews of chiropractic services provided to industrially injured workers is changed from mandatory to optional.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill would recognize chiropractic services in statute. Through efforts with the department there are proposed amendments to the language that will significantly mitigate the fiscal impact of the bill. Chiropractors would like to establish a framework to continue the process and work with the parties involved to develop the most appropriate solution.

Testimony Against: The bill would have a significant fiscal impact on the department and erode the department's authority to manage the care provided to injured workers. The bill would provide that chiropractors be treated differently than other health care professionals.

Witnesses: (In favor): Steve Wehrly, Washington Chiropractic Association; and George Masci, Washington Chiropractic Association. (Opposed): Clif Finch, Association of Washington Business; and Linda Murphy, Department of Labor and Industries.