

SENATE BILL REPORT

SB 5736

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, MARCH 3, 1993

Brief Description: Regulating chiropractic care for industrial insurance.

SPONSORS: Senators Moore, Pelz and Fraser

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5736 be substituted therefor, and the substitute bill do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Fraser, Pelz, Prince, Sutherland, and Vognild.

Staff: Dave Cheal (786-7576)

Hearing Dates: March 2, 1993; March 3, 1993

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 report forms for injured workers and temporary disability authorization forms. Only physicians licensed to practice medicine may examine injured workers to determining 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 provider advisory committees, including a chiropractic advisory committee to advise the department on such issues as standards for effective and accepted chiropractic treatment for use by attending chiropractors and consultants, standards and minimum credentials for consultant reviews, reviews of 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, such as the Department of Social and Health Services and the Department of Health.

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:

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, and may include only treatment for acute conditions.

Chiropractors must be included as health care providers who are authorized to recommend closure of a claim and to examine workers for determination of permanent disability.

If chiropractic evaluation is provided to an injured worker for reasons other than the determination of permanent disability, the chiropractor will determine the necessity and appropriateness of the care provided to the worker.

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 maximum fee schedule established by the Department of Labor and Industries for chiropractors must be based on the usual and customary charges for those services.

The department is authorized to conduct audits and investigations of providers of chiropractic and other types of health care. In conducting the audits, the department is directed to examine records and 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 provider may be terminated or suspend eligibility of the provider to provide services to injured workers.

Department audits of chiropractic care must, to the extent practicable, include reviews during an active course of treatment and use chiropractic peer review procedures as established by the Chiropractic Disciplinary Board.

EFFECT OF PROPOSED SUBSTITUTE:

Chiropractic care is added to the list of care that must be provided to injured workers, under the industrial insurance law.

The Director of the Department of Labor and Industries is required to appoint an associate medical director for chiropractic treatment who is eligible to be licensed under Washington law.

The following provisions are removed: (1) the approval of chiropractors for independent medical exams; (2) designated treatment standards for chiropractic treatment; (3) separate audit procedures for chiropractors; (4) establishing "usual and customary" charges for chiropractors; (5) establishing separate claims review procedures for claimants using chiropractic care; (6) amending audit procedures for all health care providers; and (7) allowing chiropractor attending doctors to be the final determiner of what is necessary and proper care.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Chiropractors need separate provisions in the industrial insurance law because it is a form of treatment that rejects the medical model and is based on a different system.

The department and the chiropractic profession have had disagreements in recent years. This would provide a set of rules that would reduce these problems.

TESTIMONY AGAINST:

The provision allowing chiropractors to set their own fees and determine treatment necessity is extremely costly and something no other health care provider is able to do. In general, there is no justification for all the special treatment of chiropractors that the bill provides. Many provisions of the bill run counter to health care reform proposals.

TESTIFIED: Steve Wehrley (pro); Gary Franklin (con); Linda Murphy (con); Clif Finch (con); Charles Hill (con); Kirsten Iverson (con)