

SHB 1869 - H AMD 85

By Representative Condotta

ADOPTED AS AMENDED 02/26/2011

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 51.36.010 and 2007 c 134 s 1 are each amended to read as follows:

(1) The legislature finds that high quality medical treatment and adherence to occupational health best practices can prevent disability and reduce loss of family income for workers, and lower labor and insurance costs for employers. Injured workers deserve high quality medical care in accordance with current health care best practices. To this end, the department shall establish minimum standards for providers who treat workers from both state fund and self-insured employers. The department shall establish a health care provider network to treat injured workers, and shall accept providers into the network who meet those minimum standards. The department shall convene an advisory group made up of representatives from or designees of the workers' compensation advisory committee and the industrial insurance medical and chiropractic advisory committees to consider and advise the department related to implementation of this section, including development of best practices treatment guidelines for providers in the network. The department shall also seek the input of various health care provider groups and associations concerning the network's implementation. Network providers must be required to follow the department's evidence-based coverage decisions and treatment guidelines, policies, and must be expected to follow other national treatment guidelines appropriate for their patient. The department, in collaboration with the advisory group, shall also establish additional best practice standards for providers to qualify for a second tier within the network, based on demonstrated use of occupational health best practices. This second tier is separate from

1 and in addition to the centers for occupational health and education
2 established under subsection (5) of this section.

3 (2)(a) Upon the occurrence of any injury to a worker entitled to
4 compensation under the provisions of this title, he or she shall
5 receive proper and necessary medical and surgical services at the
6 hands of a physician or licensed advanced registered nurse
7 practitioner of his or her own choice, if conveniently located,
8 except as provided in (b) of this subsection, and proper and
9 necessary hospital care and services during the period of his or her
10 disability from such injury.

11 (b) Once the provider network is established in the worker's
12 geographic area, an injured worker may receive care from a
13 nonnetwork provider only for an initial office or emergency room
14 visit. However, the department or self-insurer may limit
15 reimbursement to the department's standard fee for the services.
16 The provider must comply with all applicable billing policies and
17 must accept the department's fee schedule as payment in full.

18 (c) The department, in collaboration with the advisory group,
19 shall adopt policies for the development, credentialing,
20 accreditation, and continued oversight of a network of health care
21 providers approved to treat injured workers. Health care providers
22 shall apply to the network by completing the department's provider
23 application which shall have the force of a contract with the
24 department to treat injured workers. The advisory group shall
25 recommend minimum network standards for the department to approve a
26 provider's application, to remove a provider from the network, or to
27 require peer review such as, but not limited to:

28 (i) Current malpractice insurance coverage exceeding a dollar
29 amount threshold, number, or seriousness of malpractice suits over a
30 specific time frame;

31 (ii) Previous malpractice judgments or settlements that do not
32 exceed a dollar amount threshold recommended by the advisory group,
33 or a specific number or seriousness of malpractice suits over a
34 specific time frame;

1 (iii) No licensing or disciplinary action in any jurisdiction or
2 loss of treating or admitting privileges by any board, commission,
3 agency, public or private health care payer, or hospital;

4 (iv) For some specialties such as surgeons, privileges in at
5 least one hospital;

6 (v) Whether the provider has been credentialed by another health
7 plan that follows national quality assurance guidelines; and

8 (vi) Alternative criteria for providers that are not
9 credentialed by another health plan.

10 The department shall develop alternative criteria for providers
11 that are not credentialed by another health plan or as needed to
12 address access to care concerns in certain regions.

13 (d) Network provider contracts will automatically renew at the
14 end of the contract period unless the department provides written
15 notice of changes in contract provisions or the department or
16 provider provides written notice of contract termination. The
17 industrial insurance medical advisory committee shall develop
18 criteria for removal of a provider from the network to be presented
19 to the department and advisory group for consideration in the
20 development of contract terms.

21 (e) In order to monitor quality of care and assure efficient
22 management of the provider network, the department shall establish
23 additional criteria and terms for network participation including,
24 but not limited to, requiring compliance with administrative and
25 billing policies.

26 (f) The advisory group shall recommend best practices standards
27 to the department to use in determining second tier network
28 providers. The department shall develop and implement financial and
29 nonfinancial incentives for network providers who qualify for the
30 second tier. The department is authorized to certify and decertify
31 second tier providers.

32 (3) The department shall work with self-insurers and the
33 department utilization review provider to implement utilization
34 review for the self-insured community to ensure consistent quality,

1 cost-effective care for all injured workers and employers, and to
2 reduce administrative burden for providers.

3 (4) The department for state fund claims shall pay, in
4 accordance with the department's fee schedule, for any alleged
5 injury for which a worker files a claim, any initial prescription
6 drugs provided in relation to that initial visit, without regard to
7 whether the worker's claim for benefits is allowed. In all accepted
8 claims, treatment shall be limited in point of duration as follows:

9 In the case of permanent partial disability, not to extend
10 beyond the date when compensation shall be awarded him or her,
11 except when the worker returned to work before permanent partial
12 disability award is made, in such case not to extend beyond the time
13 when monthly allowances to him or her shall cease; in case of
14 temporary disability not to extend beyond the time when monthly
15 allowances to him or her shall cease: PROVIDED, That after any
16 injured worker has returned to his or her work his or her medical
17 and surgical treatment may be continued if, and so long as, such
18 continuation is deemed necessary by the supervisor of industrial
19 insurance to be necessary to his or her more complete recovery; in
20 case of a permanent total disability not to extend beyond the date
21 on which a lump sum settlement is made with him or her or he or she
22 is placed upon the permanent pension roll: PROVIDED, HOWEVER, That
23 the supervisor of industrial insurance, solely in his or her
24 discretion, may authorize continued medical and surgical treatment
25 for conditions previously accepted by the department when such
26 medical and surgical treatment is deemed necessary by the supervisor
27 of industrial insurance to protect such worker's life or provide for
28 the administration of medical and therapeutic measures including
29 payment of prescription medications, but not including those
30 controlled substances currently scheduled by the state board of
31 pharmacy as Schedule I, II, III, or IV substances under chapter
32 69.50 RCW, which are necessary to alleviate continuing pain which
33 results from the industrial injury. In order to authorize such
34 continued treatment the written order of the supervisor of

1 industrial insurance issued in advance of the continuation shall be
2 necessary.

3 The supervisor of industrial insurance, the supervisor's
4 designee, or a self-insurer, in his or her sole discretion, may
5 authorize inoculation or other immunological treatment in cases in
6 which a work-related activity has resulted in probable exposure of
7 the worker to a potential infectious occupational disease.
8 Authorization of such treatment does not bind the department or
9 self-insurer in any adjudication of a claim by the same worker or
10 the worker's beneficiary for an occupational disease.

11 (5)(a) The legislature finds that the department and its business
12 and labor partners have collaborated in establishing centers for
13 occupational health and education to promote best practices and
14 prevent preventable disability by focusing additional provider-based
15 resources during the first twelve weeks following an injury. The
16 centers for occupational health and education represent innovative
17 accountable care systems in an early stage of development consistent
18 with national health care reform efforts. Many Washington workers
19 do not yet have access to these innovative health care delivery
20 models.

21 (b) To expand evidence-based occupational health best practices,
22 the department shall establish additional centers for occupational
23 health and education, with the goal of extending access to at least
24 fifty percent of injured and ill workers by December 2013 and to all
25 injured workers by December 2015. The department shall also develop
26 additional best practices and incentives that span the entire period
27 of recovery, not only the first twelve weeks.

28 (c) The department shall certify and decertify centers for
29 occupational health and education based on criteria including
30 institutional leadership and geographic areas covered by the center
31 for occupational health and education, occupational health
32 leadership and education, mix of participating health care providers
33 necessary to address the anticipated needs of injured workers,
34 health services coordination to deliver occupational health best

1 practices, indicators to measure the success of the center for
2 occupational health and education, and agreement that the center's
3 providers shall, if feasible, treat certain injured workers if
4 referred by the department or a self-insurer.

5 (d) Health care delivery organizations may apply to the
6 department for certification as a center for occupational health and
7 education. These may include, but are not limited to, hospitals and
8 affiliated clinics and providers, multispecialty clinics, health
9 maintenance organizations, and organized systems of network
10 physicians.

11 (e) The centers for occupational health and education shall
12 implement benchmark quality indicators of occupational health best
13 practices for individual providers, developed in collaboration with
14 the department. A center for occupational health and education
15 shall remove individual providers who do not consistently meet these
16 quality benchmarks.

17 (f) The department shall develop and implement financial and
18 nonfinancial incentives for center for occupational health and
19 education providers that are based on progressive and measurable
20 gains in occupational health best practices, and that are applicable
21 throughout the duration of an injured or ill worker's episode of
22 care.

23 (g) The department shall develop electronic methods of tracking
24 evidence-based quality measures to identify and improve outcomes for
25 injured workers at risk of developing prolonged disability. In
26 addition, these methods must be used to provide systematic feedback
27 to physicians regarding quality of care, to conduct appropriate
28 objective evaluation of progress in the centers for occupational
29 health and education, and to allow efficient coordination of
30 services.

31 (6) If a provider fails to meet the minimum network standards
32 established in subsection (2) of this section, the department is
33 authorized to remove the provider from the network or take other
34 appropriate action regarding a provider's participation. The

1 department may also require remedial steps as a condition for a
2 provider to participate in the network. The department, with input
3 from the advisory group, shall establish waiting periods that may be
4 imposed before a provider who has been denied or removed from the
5 network may reapply.

6 (7) The department may permanently remove a provider from the
7 network or take other appropriate action when the provider exhibits
8 a pattern of conduct of low quality care that exposes patients to
9 risk of physical or psychiatric harm or death. Patterns that
10 qualify as risk of harm include, but are not limited to, poor health
11 care outcomes evidenced by increased, chronic, or prolonged pain or
12 decreased function due to treatments that have not been shown to be
13 curative, safe, or effective or for which it has been shown that the
14 risks of harm exceed the benefits that can be reasonably expected
15 based on peer-reviewed opinion.

16 (8) The department may not remove a health care provider from
17 the network for an isolated instance of poor health and recovery
18 outcomes due to treatment by the provider.

19 (9) When the department terminates a provider from the network,
20 the department or self-insurer shall assist an injured worker
21 currently under the provider's care in identifying a new network
22 provider or providers from whom the worker can select an attending
23 or treating provider. In such a case, the department or self-
24 insurer shall notify the injured worker that he or she must choose a
25 new attending or treating provider.

26 (10) The department may adopt rules related to this section.

27 (11) The department shall report to the workers' compensation
28 advisory committee and to the appropriate committees of the
29 legislature on each December 1st, beginning in 2012 and ending in
30 2016, on the implementation of the provider network and expansion of
31 the centers for occupational health and education. The reports must
32 include a summary of actions taken, progress toward long-term goals,
33 outcomes of key initiatives, access to care issues, results of
34 disputes or controversies related to new provisions, and whether any

1 changes are needed to further improve the occupational health best
2 practices care of injured workers.

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4 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes
7 effect July 1, 2011."

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9 Correct the title.

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EFFECT: Requires the Department of Labor and Industries
(Department) to seek the input of various health care provider
groups and associations regarding the network's implementation.
Deletes provision adding podiatry to the list of groups,
specialties, and associations from which nominations must be sought
for the Industrial Insurance Medical Advisory Committee (Committee)
members and expanding the Committee.

Requires network providers to follow the Department's evidence-based
coverage decisions and treatment guidelines, policies, and be
expected to follow other national treatment guidelines. (The
Substitute Bill requires providers to consider guidelines, policies,
and treatment guidelines and does not refer to "evidence-based.")

Strikes provision allowing providers to provide reasonable and
necessary treatment ordered by the Board of Industrial Insurance
Appeals or a court.

Requires the Department to collaborate with the advisory group in
establishing second tier best practice standards.

Provides specificity regarding the malpractice insurance coverage
standard to specify exceeding a dollar amount threshold, number, or
seriousness of malpractice suits over a specific time frame.
Requires, rather than allows, the Department to establish additional
criteria and terms for network participation.

Requires the advisory group to recommend standards for requiring
peer review.

Specifies that provider contracts automatically renew unless the
Department provides written notice of changes in contract provisions
or the provider or Department terminate the contract in writing.

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Requires the Committee to develop criteria for removal of a provider from the network to be presented to the Department and advisory group for consideration in the development of contract terms.

Requires the Department to obtain input from the advisory group regarding waiting periods before a provider who has been denied or removed from the network may reapply.

Strikes provision requiring Department decisions to remove a provider to be issued by appealable order.

Strikes provision requiring the Department to adopt rules allowing direct practices to be network providers and related direct practice provisions.

Clarifies that a worker may receive care from the provider the worker chooses except that once the network is established in the worker's geographic area, the worker may receive care from a nonnetwork provider only for the initial visit.

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