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**SUBSTITUTE SENATE BILL 5801**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Holmquist Newbry, Conway, and Kline)

READ FIRST TIME 02/21/11.

1       AN ACT Relating to establishing medical provider networks and  
2 expanding centers for occupational health and education in the  
3 industrial insurance system; amending RCW 51.36.010; providing an  
4 effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

8       (1) The legislature finds that high quality medical treatment and  
9 adherence to occupational health best practices can prevent disability  
10 and reduce loss of family income for workers, and lower labor and  
11 insurance costs for employers. Injured workers deserve high quality  
12 medical care in accordance with current health care best practices. To  
13 this end, the department shall establish minimum standards for  
14 providers who treat workers from both state fund and self-insured  
15 employers. The department shall establish a health care provider  
16 network to treat injured workers, and shall accept providers into the  
17 network who meet those minimum standards. The department shall  
18 convene an advisory group made up of representatives from or designees  
19 of the workers' compensation advisory committee and the industrial

1 insurance medical and chiropractic advisory committees to consider and  
2 advise the department related to implementation of this section,  
3 including development of best practices treatment guidelines for  
4 providers in the network. The department shall also seek the input of  
5 various health care provider groups and associations concerning the  
6 network's implementation. Network providers must be required to follow  
7 the department's evidence-based coverage decisions and treatment  
8 guidelines, policies, and must be expected to follow other national  
9 treatment guidelines appropriate for their patient. The department, in  
10 collaboration with the advisory group, shall also establish additional  
11 best practice standards for providers to qualify for a second tier  
12 within the network, based on demonstrated use of occupational health  
13 best practices. This second tier is separate from and in addition to  
14 the centers for occupational health and education established under  
15 subsection (5) of this section.

16 (2)(a) Upon the occurrence of any injury to a worker entitled to  
17 compensation under the provisions of this title, he or she shall  
18 receive proper and necessary medical and surgical services at the hands  
19 of a physician or licensed advanced registered nurse practitioner of  
20 his or her own choice, if conveniently located, except as provided in  
21 (b) of this subsection, and proper and necessary hospital care and  
22 services during the period of his or her disability from such injury.

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

30 (c) The department, in collaboration with the advisory group, shall  
31 adopt policies for the development, credentialing, accreditation, and  
32 continued oversight of a network of health care providers approved to  
33 treat injured workers. Health care providers shall apply to the  
34 network by completing the department's provider application which shall  
35 have the force of a contract with the department to treat injured  
36 workers. The advisory group shall recommend minimum network standards  
37 for the department to approve a provider's application, to remove a

1 provider from the network, or to require peer review such as, but not  
2 limited to:

3 (i) Current malpractice insurance coverage exceeding a dollar  
4 amount threshold, number, or seriousness of malpractice suits over a  
5 specific time frame;

6 (ii) Previous malpractice judgments or settlements that do not  
7 exceed a dollar amount threshold recommended by the advisory group, or  
8 a specific number or seriousness of malpractice suits over a specific  
9 time frame;

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

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

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

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

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

22 (d) Network provider contracts will automatically renew at the end  
23 of the contract period unless the department provides written notice of  
24 changes in contract provisions or the department or provider provides  
25 written notice of contract termination. The industrial insurance  
26 medical advisory committee shall develop criteria for removal of a  
27 provider from the network to be presented to the department and  
28 advisory group for consideration in the development of contract terms.

29 (e) In order to monitor quality of care and assure efficient  
30 management of the provider network, the department shall establish  
31 additional criteria and terms for network participation including, but  
32 not limited to, requiring compliance with administrative and billing  
33 policies.

34 (f) The advisory group shall recommend best practices standards to  
35 the department to use in determining second tier network providers.  
36 The department shall develop and implement financial and nonfinancial  
37 incentives for network providers who qualify for the second tier. The

1 department is authorized to certify and decertify second tier  
2 providers.

3 (3) The department shall work with self-insurers and the department  
4 utilization review provider to implement utilization review for the  
5 self-insured community to ensure consistent quality, cost-effective  
6 care for all injured workers and employers, and to reduce  
7 administrative burden for providers.

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

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

1 treatment the written order of the supervisor of industrial insurance  
2 issued in advance of the continuation shall be necessary.

3 The supervisor of industrial insurance, the supervisor's designee,  
4 or a self-insurer, in his or her sole discretion, may authorize  
5 inoculation or other immunological treatment in cases in which a work-  
6 related activity has resulted in probable exposure of the worker to a  
7 potential infectious occupational disease. Authorization of such  
8 treatment does not bind the department or self-insurer in any  
9 adjudication of a claim by the same worker or the worker's beneficiary  
10 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 prevent  
14 preventable disability by focusing additional provider-based resources  
15 during the first twelve weeks following an injury. The centers for  
16 occupational health and education represent innovative accountable care  
17 systems in an early stage of development consistent with national  
18 health care reform efforts. Many Washington workers do not yet have  
19 access to these innovative health care delivery models.

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

27 (c) The department shall certify and decertify centers for  
28 occupational health and education based on criteria including  
29 institutional leadership and geographic areas covered by the center for  
30 occupational health and education, occupational health leadership and  
31 education, mix of participating health care providers necessary to  
32 address the anticipated needs of injured workers, health services  
33 coordination to deliver occupational health best practices, indicators  
34 to measure the success of the center for occupational health and  
35 education, and agreement that the center's providers shall, if  
36 feasible, treat certain injured workers if referred by the department  
37 or a self-insurer.

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

6 (e) The centers for occupational health and education shall  
7 implement benchmark quality indicators of occupational health best  
8 practices for individual providers, developed in collaboration with the  
9 department. A center for occupational health and education shall  
10 remove individual providers who do not consistently meet these quality  
11 benchmarks.

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

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

24 (6) If a provider fails to meet the minimum network standards  
25 established in subsection (2) of this section, the department is  
26 authorized to remove the provider from the network or take other  
27 appropriate action regarding a provider's participation. The  
28 department may also require remedial steps as a condition for a  
29 provider to participate in the network. The department, with input  
30 from the advisory group, shall establish waiting periods that may be  
31 imposed before a provider who has been denied or removed from the  
32 network may reapply.

33 (7) The department may permanently remove a provider from the  
34 network or take other appropriate action when the provider exhibits a  
35 pattern of conduct of low quality care that exposes patients to risk of  
36 physical or psychiatric harm or death. Patterns that qualify as risk  
37 of harm include, but are not limited to, poor health care outcomes  
38 evidenced by increased, chronic, or prolonged pain or decreased

1 function due to treatments that have not been shown to be curative,  
2 safe, or effective or for which it has been shown that the risks of  
3 harm exceed the benefits that can be reasonably expected based on peer-  
4 reviewed opinion.

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

8 (9) When the department terminates a provider from the network, the  
9 department or self-insurer shall assist an injured worker currently  
10 under the provider's care in identifying a new network provider or  
11 providers from whom the worker can select an attending or treating  
12 provider. In such a case, the department or self-insurer shall notify  
13 the injured worker that he or she must choose a new attending or  
14 treating provider.

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

16 (11) The department shall report to the workers' compensation  
17 advisory committee and to the appropriate committees of the legislature  
18 on each December 1st, beginning in 2012 and ending in 2016, on the  
19 implementation of the provider network and expansion of the centers for  
20 occupational health and education. The reports must include a summary  
21 of actions taken, progress toward long-term goals, outcomes of key  
22 initiatives, access to care issues, results of disputes or  
23 controversies related to new provisions, and whether any changes are  
24 needed to further improve the occupational health best practices care  
25 of injured workers.

26 NEW SECTION. Sec. 2. This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and takes effect  
29 July 1, 2011.

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