



House of Representatives

General Assembly

File No. 240

February Session, 2008

Substitute House Bill No. 5727

House of Representatives, March 27, 2008

The Committee on Labor and Public Employees reported through REP. RYAN, K. of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE WORKERS' COMPENSATION COMMISSION AND STANDARDS FOR MEDICAL TREATMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-279 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) The chairman of the Workers' Compensation Commission shall
4 adopt regulations, in accordance with the provisions of chapter 54,
5 specifying the minimum information to be contained in a notice of the
6 availability of compensation which shall be posted in the workplace by
7 each employer subject to the provisions of this chapter pursuant to
8 subsection (f) of section 31-284.

9 (b) The chairman of the Workers' Compensation Commission shall,
10 not later than July 1, 1991, adopt regulations, in accordance with
11 chapter 54, to create a uniform system to be used by medical
12 professionals in determining the degree of physical impairment of

13 persons receiving compensation under this chapter.

14 (c) (1) Any employer or any insurer acting on behalf of an employer,
15 may establish a plan, subject to the approval of the chairman of the
16 Workers' Compensation Commission under subsection (d) of this
17 section, for the provision of medical care that the employer provides
18 for treatment of any injury or illness under this chapter. Each plan
19 shall contain such information as the chairman shall require, including,
20 but not limited to:

21 (A) A listing of all persons who will provide services under the
22 plan, along with appropriate evidence that each person listed has met
23 any licensing, certification or registration requirement necessary for
24 the person to legally provide the service in this state;

25 (B) A listing of all pharmacies that will provide services under the
26 plan, to which the employer, any insurer acting on behalf of the
27 employer, or any other entity acting on behalf of the employer or
28 insurer shall make direct payments for any prescription drug
29 prescribed by a physician participating in the plan;

30 (C) A designation of the times, places and manners in which the
31 services will be provided;

32 (D) A description of how the quality and quantity of medical care
33 will be managed; and

34 (E) Such other provisions as the employer and the employees may
35 agree to, subject to the approval of the chairman.

36 (2) The election by an employee covered by a plan established under
37 this subsection to obtain medical care and treatment from a provider of
38 medical services who is not listed in the plan shall suspend the
39 employee's right to compensation, subject to the order of the
40 commissioner.

41 (d) Each plan established under subsection (c) of this section shall be
42 submitted to the chairman for his approval at least one hundred

43 twenty days before the proposed effective date of the plan and each
44 approved plan, along with any proposed changes therein, shall be
45 resubmitted to the chairman every two years thereafter for reapproval.
46 The chairman shall approve or disapprove such plans on the basis of
47 standards established by the chairman in consultation with a medical
48 advisory panel appointed by the chairman. Such standards shall
49 include, but not be limited to: (1) The ability of the plan to provide all
50 medical and health care services that may be required under this
51 chapter in a manner that is timely, effective and convenient for the
52 employees; (2) the inclusion in the plan of all categories of medical
53 service and of an adequate number of providers of each type of
54 medical service in accessible locations to ensure that employees are
55 given an adequate choice of providers; (3) the provision in the plan for
56 appropriate financial incentives to reduce service costs and utilization
57 without a reduction in the quality of service; (4) the inclusion in the
58 plan of fee screening, peer review, service utilization review and
59 dispute resolution procedures designed to prevent inappropriate or
60 excessive treatment; and (5) the inclusion in the plan of a procedure by
61 which information on medical and health care service costs and
62 utilization will be reported to the chairman in order for him to
63 determine the effectiveness of the plan. The commissioners shall have
64 plenary review of decisions with respect to the provision or denial of
65 medical care under the plan and may determine whether such medical
66 care is reasonable or necessary.

67 (e) Any person who serves as a member of the medical advisory
68 panel, appointed by the chairman of the Workers' Compensation
69 Commission pursuant to subsection (d) of this section, shall be deemed
70 to be a state officer or employee for purposes of indemnification and
71 defense under section 5-141d.

72 Sec. 2. Section 31-300 of the general statutes is repealed and the
73 following is substituted in lieu thereof (*Effective October 1, 2008*):

74 As soon as may be after the conclusion of any hearing, but no later
75 than one hundred twenty days after such conclusion, the

76 commissioner shall send to each party a written copy of the
77 commissioner's findings and award. The commissioner shall, as part of
78 the written award, inform the employee or the employee's dependent,
79 as the case may be, of any rights the individual may have to an annual
80 cost-of-living adjustment or to participate in a rehabilitation program
81 under the provisions of this chapter. The commissioner shall retain the
82 original findings and award in said commissioner's office. If no appeal
83 from the decision is taken by either party within twenty days
84 thereafter, such award shall be final and may be enforced in the same
85 manner as a judgment of the Superior Court. The court may issue
86 execution upon any uncontested or final award of a commissioner in
87 the same manner as in cases of judgments rendered in the Superior
88 Court; and, upon the filing of an application to the court for an
89 execution, the commissioner in whose office the award is on file shall,
90 upon the request of the clerk of said court, send to the clerk a certified
91 copy of such findings and award. In cases where, through the fault or
92 neglect of the employer or insurer, medical treatment or adjustments
93 of compensation have been unduly delayed, or where through such
94 fault or neglect, payments have been unduly delayed, the
95 commissioner may include in the award interest at the rate prescribed
96 in section 37-3a and a reasonable attorney's fee in the case of undue
97 delay in medical treatment or adjustments of compensation and may
98 include in the award in the case of undue delay in payments of
99 compensation, interest at twelve per cent per annum and a reasonable
100 attorney's fee. Payments not commenced within thirty-five days after
101 the filing of a written notice of claim shall be presumed to be unduly
102 delayed unless a notice to contest the claim is filed in accordance with
103 section 31-297. In cases where there has been delay in either
104 adjustment or payment, which delay has not been due to the fault or
105 neglect of the employer or insurer, whether such delay was caused by
106 appeals or otherwise, the commissioner may allow interest at such
107 rate, not to exceed the rate prescribed in section 37-3a, as may be fair
108 and reasonable, taking into account whatever advantage the employer
109 or insurer, as the case may be, may have had from the use of the
110 money, the burden of showing that the rate in such case should be less

111 than the rate prescribed in section 37-3a to be upon the employer or
 112 insurer. In cases where the claimant prevails and the commissioner
 113 finds that the employer or insurer has unreasonably contested liability,
 114 the commissioner may allow to the claimant a reasonable attorney's
 115 fee. No employer or insurer shall discontinue or reduce payment on
 116 account of total or partial incapacity under any such award, if it is
 117 claimed by or on behalf of the injured person that such person's
 118 incapacity still continues, unless such employer or insurer notifies the
 119 commissioner and the employee of such proposed discontinuance or
 120 reduction in the manner prescribed in section 31-296 of the 2008
 121 supplement to the general statutes and the commissioner specifically
 122 approves such discontinuance or reduction in writing. The
 123 commissioner shall render the decision within fourteen days of receipt
 124 of such notice and shall forward to all parties to the claim a copy of the
 125 decision not later than seven days after the decision has been rendered.
 126 If the decision of the commissioner finds for the employer or insurer,
 127 the injured person shall return any wrongful payments received from
 128 the day designated by the commissioner as the effective date for the
 129 discontinuance or reduction of benefits. Any employee whose benefits
 130 for total incapacity are discontinued under the provisions of this
 131 section and who is entitled to receive benefits for partial incapacity as a
 132 result of an award, shall receive those benefits commencing the day
 133 following the designated effective date for the discontinuance of
 134 benefits for total incapacity. In any case where the commissioner finds
 135 that the employer or insurer has discontinued or reduced any such
 136 payment without having given such notice and without the
 137 commissioner having approved such discontinuance or reduction in
 138 writing, the commissioner shall allow the claimant a reasonable
 139 attorney's fee together with interest at the rate prescribed in section 37-
 140 3a on the discontinued or reduced payments.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	31-279
Sec. 2	<i>October 1, 2008</i>	31-300

LAB *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which gives a workers' compensation commissioner the power to fully review a decision on providing or denying medical care, has no fiscal impact on the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5727

AN ACT CONCERNING THE WORKERS' COMPENSATION COMMISSION AND STANDARDS FOR MEDICAL TREATMENT.

SUMMARY:

This bill gives a workers' compensation commissioner the power to (1) fully review a decision to provide or deny medical care and (2) determine whether such care is reasonable or necessary.

By law, employers and insurers can sponsor medical plans, which must be approved by a commissioner, to provide the necessary care for injured workers under the Workers' Compensation Act. Under current regulation, a decision by the plan's chief executive officer to deny payment for medical or health care services is subject to review only if it is shown to be unreasonable, arbitrary, or capricious (CT. Agencies Reg. § 31-279-10(f)). The bill gives a commissioner the power to review decisions without having to show they meet the threshold stated in regulation. But it is unclear if the bill applies just to a chief executive officer's decision or if it could be triggered by a decision at an earlier stage in the medical plan process.

By law, if a commissioner finds an insurer or employer caused an undue delay of wage loss payments through its own fault or neglect, the commissioner can order them to pay interest penalties and reasonable attorney's fees. The bill also allows the commissioner to make such a ruling for undue delays of medical treatment.

EFFECTIVE DATE: October 1, 2008

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 6 Nay 3 (03/11/2008)