



**Raised Bill No. 61 LCO No. 218 AN ACT REMOVING THE REQUIREMENT  
OF EMPLOYER OR INSURER PREAPPROVAL FOR THE PROVISION OF  
CERTAIN MEDICAL EXAMINATIONS AND TREATMENT TO INJURED  
WORKERS**

before the Joint Committee on Labor and Public Employees:

I am Robert F. Carter, a resident of Southbury and partner in the law firm of Carter & Civitello in Woodbridge. Our firm represents injured employees. I have been active in the field of workers' compensation for more than thirty years and have worked in this area on behalf the Connecticut Trial Lawyers Association and the Workers' Compensation Section of the Connecticut Bar Association. I am one of the authors of the treatise "Connecticut Workers' Compensation Law" published by Thomson-West in 2008, and currently I am teaching workers' compensation law at the University of Connecticut Law School.

I am here to testify in support Raised Bill No. 61 concerning delays in medical care for injured employees. Because of confusion and gaps in the workers' compensation commissioners' authority, injured employees too often suffer serious delays in receiving medical care. An inordinate amount of time and energy is spent in obtaining vital medical care, prescription medications and physical therapy. At a recent Bar Association seminar, a very active current commissioner estimated that 60% of his hearing time was spent in hearings for authorization for medical treatment. The experience of our firm is similar. Delays in obtaining treatment are a very great concern for injured employees. Running out of a needed medicine because the workers' compensation insurer has not authorized it and won't pay for it is very common for injured employees. This bill would help remedy this chronic and very serious problem.

Sections 1 and 3 of the bill would give needed authority for the commissioner at an informal hearing to authorize routine medical treatment in accepted cases, which includes office visits with treating physicians, prescriptions and physical therapy prescribed by the treating physicians. (By amendments to CGS §31-294d(c) and §31-275(21).)

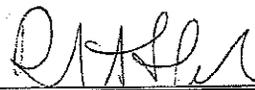
Section 3 would also clarify the existing law (CGS §31-279), to make it clear that no preauthorization for a routine medical examination or treatment is required, and the insurers will pay for this treatment. Because of chronic trouble getting paid, many physicians and pharmacies will not see a regular patient for a

routine office visit or dispense a prescription medicine without preauthorization in writing from the workers' compensation insurer. Similarly, many insurers will not pay for a visit to a doctor unless the insurer has authorized the visit in advance. This has led to unnecessary delays in treatment, and much anger and frustration. The bill would remedy this problem, so that routine treatment in accepted cases may take place without preauthorization. This provision would by law return workers' compensation to the same practices which prevailed by custom twenty years earlier. This problem was recognized by Chairman Jesse Frankl in a memorandum in 1998 (Memorandum No. 98-08), which stated that treatment by an authorized physician may continue without preauthorization; but the memorandum, with no means for enforcement, was ignored by the insurers and medical practitioners and the problem of delay has continued to escalate.

Section 2 would also amend CGS §31-279 to give the commissioner the ultimate authority to approve or deny medical treatment which has been denied by the employer's "preferred provider organization," which administers medical care through panels of preselected physicians. Under the current law, the administrator of the plan can veto the treatment recommendations of the authorized treating physician, without any legal review by the workers' compensation commissioner. The PPOs have great financial incentive to deny treatment under the current law; the commissioner should be able to exercise his or her sound judgment over the appropriateness of the proposed medical treatment based on all the medical evidence in the case. This Act would give the commissioner the power to exercise such judgment.

Section 3 would provide that where an authorized course of medical treatment has begun in an accepted case, as for example 12 visits of physical therapy, the insurer may not abruptly interrupt and stop the treatment before it has been completed. The insurer would be required to file a notice of intention to stop the continuing course of treatment (a "Form 36"), just as the insurer must now do to discontinue continuing weekly disability benefits to an injured employee, as for example benefits for total disability. If the insurer seeks to stop a course of treatment prior to its completion, it must provide grounds for stopping the treatment or schedule an insurer's examination with another physician. The commissioner will then have the authority to approve or deny the proposed termination in the treatment.

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Robert F. Carter