



# Senate

General Assembly

**File No. 64**

January Session, 2011

Substitute Senate Bill No. 986

*Senate, March 14, 2011*

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING ADDITIONAL REQUIREMENTS FOR AN EMPLOYER'S NOTICE TO DISPUTE CERTAIN CARE DEEMED REASONABLE FOR AN EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT.***

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

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) No employer shall  
2 discontinue, reduce or deny a course of treatment which a physician or  
3 surgeon deems reasonable or necessary unless the employer notifies  
4 the commissioner, physician or surgeon and the employee of the  
5 proposed discontinuance, reduction or denial of the course of medical  
6 care and the commissioner approves such discontinuance, reduction or  
7 denial of such care in writing. Such notice shall specify the reason  
8 maintained by the employer that the course of medical care deemed  
9 reasonable by the physician is not reasonable and be in substantially  
10 the following form:

11 IMPORTANT

12 STATE OF CONNECTICUT WORKERS' COMPENSATION  
13 COMMISSION

14 YOU ARE HEREBY NOTIFIED THAT THE EMPLOYER OR  
15 INSURER INTENDS TO DISCONTINUE, REDUCE OR DENY  
16 TREATMENT ... (date) FOR THE FOLLOWING REASONS:

17 If you object to the discontinuance, reduction, or denial of treatment  
18 as stated in this notice, YOU MUST REQUEST A HEARING NOT  
19 LATER THAN 15 DAYS after your receipt of this notice, or this notice  
20 will automatically be approved.

21 To request an Informal Hearing, call the Workers' Compensation  
22 Commission District Office in which your case is pending.

23 Be prepared to provide medical and other documentation to  
24 support your objection. For your protection, note the date when you  
25 received this notice.

26 (b) No discontinuance or reduction of an ongoing course of  
27 treatment shall be effective unless approved in writing by the  
28 commissioner upon a determination that the proposed care is not  
29 reasonable. The parties may request a hearing on any such proposed  
30 discontinuance, reduction or denial not later than fifteen days after  
31 receipt of such notice. Such notice of intention to discontinue, reduce  
32 or deny medical treatment shall be issued not later than five days after  
33 a notice of need for treatment is received by the employer, employer's  
34 insurer, employer's claim administrator or Second Injury Fund. The  
35 commissioner shall not approve such discontinuance, reduction or  
36 denial prior to expiration of the period for requesting a hearing or the  
37 completion of the hearing, whichever is later. Either party may request  
38 a formal hearing on the commissioner's decision to grant or deny the  
39 discontinuance, reduction or denial. The employer shall have the  
40 burden of proof that the medical care or treatment is unreasonable.

41 (c) The notice required in subsection (a) of this section shall include  
42 an opinion from a physician licensed to practice medicine in

43 Connecticut that the course of treatment recommended by the  
 44 attending physician is not reasonable or necessary and does not meet  
 45 the standard of care that should be exercised by a physician practicing  
 46 in the same specialty as the attending physician and the basis for such  
 47 opinion. If the employer intends to rely on the opinion of a physician  
 48 who performs an examination pursuant to section 31-294f of the  
 49 general statutes, and such examination has not yet taken place, then  
 50 the name of the physician, date, time and location of the examination,  
 51 which shall be held not more than two weeks after the employee's  
 52 receipt of the notice, shall be attached to the notice in lieu of an opinion  
 53 that the treatment is not reasonable or necessary. The treatment  
 54 recommended by the attending physician or surgeon may not be  
 55 discontinued, reduced or denied until the results of the examination  
 56 pursuant to section 31-294f of the general statutes is considered at an  
 57 informal hearing.

58 (d) If the employer seeks to discontinue, reduce or deny the course  
 59 of medical care found reasonable by a physician based upon a dispute  
 60 between physicians not as to the reasonableness of the course of care,  
 61 but as to the better course of care, the patient shall be entitled to choose  
 62 the course of care after informed consent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section

**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Department of Administrative Services - Workers' Comp. Claims	GF & TF - Potential Cost	Potential Significant	Potential Significant
Dept's of Children & Families, Corrections, Developmental Services, Mental Health & Addiction Services & Public Safety	GF - Potential Cost	Potential Significant	Potential Significant

Note: GF=General Fund; TF = Transportation Fund

**Municipal Impact:**

Municipalities	Effect	FY 12 \$	FY 13 \$
All Municipalities	STATE MANDATE - Potential Cost	Potential Significant	Potential Significant

**Explanation**

The bill may result in a potential significant impact to the state and municipalities as it increases the number of routine examinations and treatments required to be covered and creates additional requirements for employers to dispute such treatments.<sup>1</sup>

It is unclear to what extent older unsettled claims may affect medical costs for routine examinations and treatment. The state has approximately 250,000 claims more than 7 years old, where it is more difficult to assess the medical necessity of a routine examination or treatment in relationship to the original injury.

The bill is not anticipated to have a fiscal impact on the Workers'

<sup>1</sup> As a point of reference, in FY 09 and FY 10 the State of Connecticut Workers' Compensation Program has spent an average of \$43.1 million annually on medical services that have been accepted as claims-related and deemed medically necessary.

Compensation Commission.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 986*****AN ACT CONCERNING ADDITIONAL REQUIREMENTS FOR AN EMPLOYER'S NOTICE TO DISPUTE CERTAIN CARE DEEMED REASONABLE FOR AN EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT.*****SUMMARY:**

This bill requires employers to obtain written approval from a workers' compensation commissioner before discontinuing, reducing, or denying an employee's course of medical treatment deemed reasonable or necessary by a physician or surgeon. To grant approval, the commissioner must find the proposed treatment unreasonable. It entitles the employee to a hearing and specifies the procedure that must be followed.

The bill also allows an employee to choose the course of medical care when an employer seeks to change the claimant's care because physicians agree on a medical course's reasonableness but disagree on which course is better.

Current law limits an employer's ability to discontinue or reduce workers' compensation payments for accepted claims, but does not apply to cases where there is disagreement over the course of medical treatment.

EFFECTIVE DATE: October 1, 2011

**PROCEDURE**

To obtain written approval from a commissioner, an employer must first notify the claimant, commissioner, and the physician or surgeon who found the treatment reasonable or necessary that it intends to discontinue, reduce, or deny the treatment. The bill gives the employer five days to issue the notice after the employer, employer's

insurer, employer's claim administrator, or Second Injury Fund receives notice of the claimant's need for treatment.

The bill specifies the form the notice must take. It must include (1) the reason that the treatment is not reasonable and (2) a licensed physician's opinion and its basis that the treatment is not reasonable or necessary and does not meet the standard of care that should be exercised by a physician practicing in the same specialty. If the employer intends to rely on a physician's opinion based on a future medical examination, the notice must instead include an appointment for the exam within two weeks of the employee's receipt of the notice. The employee's treatment cannot be modified until the exam's results have been considered at an informal hearing.

The notice must also advise the employee (1) of the 15-day deadline to request an informal hearing, (2) how to request the hearing, (3) to be prepared to support his or her objection with medical and other documentation, and (4) to note the date he or she receives the notice. The bill prohibits the commissioner from approving any changes in treatment until the deadline to request a hearing has passed or the case has been heard, whichever is later.

At a hearing, the employer must prove that the proposed medical care or treatment is not reasonable. The employer cannot discontinue, reduce, or deny the proposed treatment unless the commissioner approves the change in writing. Either party may request a formal hearing after the commissioner's decision.

## **BACKGROUND**

### ***Workers' Compensation Services***

The workers' compensation law requires employers to furnish all necessary medical and rehabilitative services to employees who suffer work-related injuries. This duty encompasses not only an attending physician but also whatever medical treatment and diagnostic procedures the physician deems reasonable or necessary. The law allows the employee to choose his or her own physician, within limits,

but if he or she does not or cannot do so, the employer may choose one. The law also allows employers to set up medical plans with a particular group of medical providers to treat job-related injuries. These plans must be approved by the Workers' Compensation Commission chairperson. Injured employees covered by such plans are required to get medical treatment only from plan doctors.

Although the law does not specifically address contested courses of medical care, the Workers' Compensation Commission's "Payor and Medical Provider Guidelines" does provide specific guidance. The guidelines have been in effect since July 1, 2010.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 3      (03/01/2011)