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**Raised Bill 986
Public Hearing 2/24/2011**

TO: MEMBERS OF THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION
DATE: FEBRUARY 24, 2011

RE: SUPPORT RAISED BILL 986: AAC ADDITIONAL REQUIREMENTS FOR AN EMPLOYER'S NOTICE TO DISPUTE CERTAIN CARE DEEMED REASONABLE FOR AN EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT

The CTLA strongly SUPPORTS Raised Bill 986 and respectfully contends the bill should pass.

Delay in the authorization of medical treatment in accepted workers' compensation claims is a common occurrence. Simply put, there has been a breakdown in the delivery process of Workers' Compensation benefits to injured workers, which results in confusion, delay and additional hearings. Delay comes in many forms. Typically, it is due to the failure of the insurer to timely authorize continued treatment; the unilateral cessation of treatment by the insurer; the refusal of physicians to provide treatment until they receive confirmation from the insurer that they will be paid, even though such confirmation is not required; and poor communication between insurers and medical providers.

Recently the WCC enacted *Guidelines to Improve the Coordination of Medical Services*. The goal of these Guidelines is to provide the timely and efficient delivery of medical services. ***The adoption of the Guidelines is recognition by the WCC that there are impediments to the delivery of medical services to injured workers.*** The Guidelines outline ways to minimize potential disruptions and to encourage compliance with Connecticut's Workers' Compensation laws. ***The problem with the Guidelines is that they are advisory and do not contain any enforcement provisions nor are they uniformly followed or acknowledged by insurance adjusters or physicians.*** They are limited to the treatment recommendations of the medical care protocols, which do not address more serious injuries. Most importantly, an employer or insurer can still unilaterally terminate medical treatment.

Raised Bill 986 will accomplish the following:

- **Reduces delays in obtaining medical treatment:**
Section one prohibits a respondent from discontinuing, reducing or denying medical treatment, which the treating physician deems to be reasonable or necessary, in an accepted claim without first notifying the medical provider, commissioner and employee.
- **Provides a timetable to resolve disputes:**
No reduction or discontinuation of treatment is effective until it is approved in writing by a commissioner. The respondent has 5 days after receiving notice of the requested treatment to file its notice contesting the recommended treatment. The parties may request a hearing not later than 15 days after receipt of the respondent's notice. The commissioner shall not approve the requested discontinuation, reduction or denial of treatment before the expiration of the 15 day period or the completion of the hearing, whichever is later. The respondent bears the burden of proof that the requested medical care or treatment is unreasonable.
- **No changes to employers' rights to contest denied claims**
Section two states that the employer is required to file a Form 36 with an opinion from a physician practicing in the same specialty as the attending physician that the recommended course of treatment is not reasonable or necessary and does not meet the requisite standard of care for that specialty. A respondent may rely on the

opinion of a physician who performs an examination at its request and such examination must occur within 2 weeks of the respondent's notice if it has not already occurred.

- **Injured workers get back to work quicker, saving employer's time and money:** Lastly, in section three, if there is a dispute over the better course of medical treatment, and not the reasonableness of the treatment, the claimant may choose the course of treatment. As is customary, if the treatment is recommended by the treating physician (who is from the approved list of physicians) or by a physician to whom the claimant was referred by the treating physician, it is considered to be the choice of the claimant.
- **How this bill differs from previous proposals:**
This bill addresses the same issues as proposed last year but from a different and more limited perspective. A 2010 proposal stated that Commissioners could authorize routine medical treatment in accepted cases. It also made clear that no preauthorization for routine treatment is required. It sought to codify Memorandum No. 98-08, which stated that treatment by an authorized physician may continue without preauthorization. (Lacking enforceability, this Memorandum is ignored by insurers and medical providers.) Unlike last year's bill, Raised bill 986I does not address the authorization of routine treatment but, instead, prohibits the unilateral cessation or denial of treatment. It is much more limited in scope and application. It eliminates the need for preauthorization of treatment; medical providers are assured of payment until the employer notifies the injured worker of its intent to dispute treatment based on medical evidence. Like last year's bill, it specifies a notification procedure for discontinuing, reducing or denying medical treatment in an accepted case that is similar to a Form 36. This procedure incorporates the time periods set forth in the Guidelines.

CTLA RESPECTLY URGES THE COMMITTEE TO PASS RAISED BILL 986