

*Referred by address + zip code*

*Referred to Senate Bill 151*

Testimony For Senate Bill February 28, 2012

My name is Lydia Mele, I am an Injured worker who has been testifying before this committee since 2007.

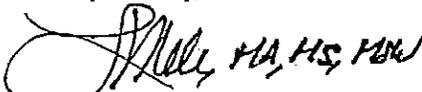
I cannot support Bill number 151 for the following reasons:

- The workers comp law was originally designed for workers to get their medical treatment in lieu of suing their employer. Under the workers comp law injured workers, are denied their seventh amendment right to sue, and the insurance companies have manipulated the law to their advantage. The fact that injured workers cannot sue for bad faith when employers unduly delay treatment, puts their health and well being at risk, thereby delaying their recovery rehabilitation and return to work .
- Although the workers comp statute states that physicians have the final determination as to what is " medically necessary", insurers are allowed to continue to delay and deny treatment.
- My case is a perfect example of the insurer's ability to manipulate the law. In 2007 I needed a replacement for my wheelchair prescribed as a result of and injuries. The chair I was given did not fit me properly. Despite the fact that the person who was sent to evaluate me from a wheelchair company, was not certified to do so, despite an evaluation of qualified physical therapist pointing out deficiencies in the chair based on my medical diagnoses, and repeated progress reports from my board certified spine specialist that the chair was an improper fit and needed modification, Travelers chose to fight this all the way to the Supreme Court. The workers comp Commissioner who initially heard my case made improper inferences from the evidence, and denied wheelchair modifications deemed medically necessary by my board certified spine specialist. This resulted in my being in the wrong chair without lumbar support for the last four years and eight months. That is criminal and unconscionable. My attorney told me the way the workers comp laws are written, there was little hope of reversing a workers comp case Commissioner's decision. I knew based on the evidence justice was not served, and felt strongly I had to pursue an appeal. He told me to file the appeal myself. I did so won my case all the way to the Supreme court, pro se. Workers comp commissioners do not always make the right decisions, and do not have the medical training a physician has. The physician who has been treating the patient is the one who is thoroughly familiar with their patients medical condition, and the best one qualified to determine " medical necessity". Neither lawyer nor commissioners ( with all due respect) have the medical training or medical experience to make that determination.
- I also won an appeal for my right trochanteric bursitis at the appellate court level in 2009, Commissioner's decision overturned based on the evidence.
- Everyone knows insurers use 31- 294F to delay or deny treatment even though an injured worker may have voluntary agreements stating it is a compensable injury and work-related.
- Commissioners, workers comp lawyers , injured workers( who when they have the opportunity to talk among themselves, compare notes, find they have been sent to the same preferred physicians), realize that some of these physicians selected by the insurance companies are biased in favor of the insurers, yet no one is willing to do anything about it . It's a tool used by the insurers to deny or unduly delay treatment, knowing the injured worker has no recourse , as they cannot sue for bad faith.

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- There should be an oversight committee of impartial physicians, unaffiliated with the state of Connecticut who can render an impartial evaluation, along with an advisory committee of injured workers and board-certified workers comp attorneys voted in by injured workers by ballot based on qualifications and experience who are unaffiliated with unions, or lobbyists
- Only lawyers benefit from this bill.
- Insurance companies are rarely sanctioned for these undue delays because the commissioners only have the power to sanction( under the present law), only if there is a formal hearing, which can take months and up to a year or more. There must be sanctions imposed, especially if the injured worker has been to many informal hearings for the same issue. My case for my wheelchair took 4 1/2 years to get through the legal system, and cost my employer far more money than it would cost for modifications or even a new wheelchair that fit me properly. There is no incentive for the insurance companies to stop delaying treatment, as there is no consequence when they do so ,and the cost of the delay is absorbed by the employer in legal fees paid to and the insurer by the employer.
- I have testified in the past that I would like to see a stronger deterrent added to the present law. If language was added to the present law giving the Commissioner not only the power to sanction at an informal hearing, but requiring to do so, if it is evident in the injured workers file that the injured worker has been there multiple times where treatment the physician deems "medically necessary" has been delayed or denied if the insurance company had to incur fines for repeated delay of treatment, and it would affect their financial bottom line, good I would think that would deter them, save time, and need for formal hearings and excessive legal fees that state and municipal employers have pay to the insurance company attorneys. This would save the state and municipalities a lot of money and the injured worker a lot of pain and heartache, and allow them to return to work after being given the treatment and rehabilitation determined as medically necessary by the physician under 31-294-d
- My input is based on support groups I have run for injured workers who have continually complained being denied treatment or treatment delayed which has exacerbated their injuries and delayed their ability to return to work. Many injured workers are permanently disabled from their injuries and still treatment is denied or delayed, forcing them onto Social Security, Medicaid or Medicare. That puts a burden the state economy, and puts more money into the insurance company's pocket.
- It is time the legislature take action to protect the injured worker so they can get the treatment they need to return to work, or become more functional . This would save the State money in the long run. When Insurance companies are allowed to manipulate the law and deny or delay treatment, that money goes back into their coffers. As a result, insurance companies get richer, and the state is getting poorer.

Respectfully,

  
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