Bill No.: HB-6916
AN ACT EXPANDING REMEDIES AND POTENTIAL LIABILITY FOR UNREASONABLY CONTESTED OR DELAYED WORKERS' COMPENSATION CLAIMS.

Vote Date: 3/21/2019
Vote Action: Joint Favorable
PH Date: 2/26/2019
File No.:  

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SPONSORS OF BILL:

REASONS FOR BILL: Injured workers were losing their jobs due to undue delays in care because of the numerous hearings and appointments required before workers' compensation benefits were awarded.

RESPONSE FROM ADMINISTRATION/AGENCY:
None submitted.

NATURE AND SOURCES OF SUPPORT:

Rep. Susan M. Johnson, 49th Assembly District: She made the connection between work-related injuries and opioid use leading to abuse. The longer injured workers suffer, the longer they are treated with pain medication. The delay in medically necessary care is contributing to the addiction epidemic. It is ironic the insurance industry and businesses are unwittingly contributing to this situation. Treating these injuries as soon as possible will reduce addiction, so everyone should work to make this happen.

CT Trial Lawyers Association: This bill would prohibit workers from suing their employers for workplace injuries and protect employers from increased insurance rates/penalties. Without this bill, injured workers will continue to receive untimely medical. Delayed treatment slows recovery and delays going back to work. It could result in further and irreversible debilitating conditions. Medical costs continue to be improperly shifted to government
subsidized health insurers such as Medicaid and Medicare. Delay in wage replacement hurts many injured workers who live paycheck to paycheck. Current penalties are small and seldom imposed. It is financially beneficial for insurance companies to continue these unfair claims practices.

**Susan DeRosa, Seymour Resident:** The mother of 4, she was not paid temporary total disability insurance benefits for over 8 weeks despite doctor’s approval after the required medical exam. She was forced to go to diaper/food banks and her car was repossed. This occurred numerous times, even after the insurance carrier received penalties. Her payments stopped in less than 3 months and her medical treatment/approval was delayed.

**Kent Dungfeldor, Manchester Resident:** After surgery on his left shoulder followed by physical therapy, he returned to work but was diagnosed with damage to the right shoulder due to overuse after the initial surgery. The insurance company formally denied coverage saying the right shoulder was related from the onset. He and his attorney attended two hearings before the Commissioner, went through a deposition and sent him to their doctor who agreed with his personal doctor on all points. There was an 11 month delay in getting the surgery and he received no paid benefits. There will be permanent damage. This bill is necessary.

**Marie E. Gallo-Hall, Certified Workers’ Compensation Specialist, Coventry Legal Services:** She represented both claimants and responders throughout years of practice. A major recurring issue is authorization for treatment while a claim is under investigation. Treatment is often delayed during this time. Just as claimants have the right to due process, respondents have the right to fully investigate claims to ensure they are compensable. Once a claim has been established, the burden shifts to the respondents to timely and adequately produce evidence to support its denial while authorizing treatment without prejudice.

**Rick Hart, Director, Uniformed Professional Fire Fighters Association of CT:** Injured employees sometimes meet resistance in the delivery of care. Weeks pass while they are in expensive physical therapy only to find out surgery is required. Expediting claims/treatment will benefit employees with healthier outcomes and employers with the return to work of a productive employee. Employees should never be concerned with job loss as a result of an injury.

**Lydia Mele, East Hartford Resident:** While working 30 years for the City of Hartford, she sustained multiple injuries. Even with undisputed proof her injuries were work related, surgeries were denied for years. This is a wear-down strategy denying treatment, dragging injured workers from hearing to hearing in hopes the pain will wear them down, breaking their spirit with the ultimate goal of having them give up and go on long term disability or find other support through the State. If she had received timely treatment and surgeries when they were initially recommended and not years later, she would not be in a wheelchair now. Insurance attorneys, who are paid by the employers win or lose, tend to delay with the incentive of more billable hours. The injured worker must pay for formal hearings and attorneys’ fees. She prevailed after years of litigation and finally received a wheelchair. This was after her employer paid thousands of dollars in billable hours to their insurance attorney, plus court fees all the way to the Supreme Court! This bill helps prevent delays and curtails abuse that could result in permanent disability.
Sharon Hubbard, South Windsor Resident: In 2014, after a long series of treatments and several surgeries on her cervical/lumbar spine and shoulder, she was placed on restrictive duty. She was eligible for partial benefits based on weekly earnings which she received regularly. However, her injuries never healed and when placed on restricted duty once again, the partial benefits were less-than-timely. At one point she was unable to go to work because she didn’t have enough gas money. Benefits were continually delayed to the extent that her utilities were cut off and she required town assistance for heating. There is a statute requiring payment of a benefit for time off for medical treatment. Her employer would deduct this time from her paycheck and she has been trying to collect it since 2016 to no avail. This bill would compensate for this kind of behavior.

Bob Shea & Patti Shea, Police Officer Association of CT: Police officers are highly trained /specialized public safety professionals. When injured, they need appropriate medical care in order to return back to work. If this doesn’t happen quickly, the Police Chief, especially in smaller towns, may be required to hire another officer to perform crucial public safety duties. This causes unnecessary increased costs. They support this bill.

Matthew Whitehouse, Self: While moving a television for a customer, he injured his right shoulder. It was reported immediately and there was never a dispute that it arose out of the course of employment and was accepted as a work related injury. After medical treatment and physical therapy, an MRI was performed showing a torn rotator cuff. He had surgery followed by 26 sessions of physical therapy, but there was no significant relief. It was determined that further surgery was required, but the doctor was unable to get authorization because there was a conflict between the radiologist and the orthopedic surgeon. He was required to have a respondent’s medical exam, which agreed with his own doctor’s original diagnosis. The undue delays are immeasurable and unacceptable, especially for a system designed to provide immediate and timely medical treatment and benefits to injured works.

Angelo Rivera, Self: A calendar of events from Keara Sweet, a nurse case manager, was submitted showing an outline of his injury and subsequent workers compensation claim.

NATURE AND SOURCES OF OPPOSITION:

American Property Casualty Insurance Association: This bill is unnecessary because the current statute provides generous benefits to workers’ compensation claimants, including eligibility to receive attorney’s fees, 12% interest on improperly withheld compensation and available remedies if claimants are subjected to unreasonable delays. This proposal would upend the exclusive remedy section and grant claimants another cause of action, opening floodgates for increased litigation, bogging down the courts and driving up the cost of doing business.

Joy Avallone, General Counsel, Insurance Association of CT: Because the burden of proof for a claimant is low and most claims are accepted expeditiously, this bill will not accomplish its goals. It will not prevent injured workers from: losing their jobs, limit the number of times doctors/attorneys attend hearings to ensure timely medical care, prevent long-term disability claims, prevent job loss, help employers retain well-trained staff or prevent shifting the cost of worker’s comp coverage to the Medicaid program. Ample remedies exist to address the issues contemplated by this legislation. They urge rejection.
Louise DiCocco, Counsel, CBIA: They oppose this bill because the issue of unreasonable delay in workers’ compensation claims is already addressed and codified in state law under the Workers’ Compensation Act. The CT Unfair Insurance Practice Act (CUIPA) allows claimant to bring action if hearing delays occur. Adding unnecessary mandates only increases workers’ compensation costs.

Daniel C. Giungi, Senior Legislative Associate, CCM: This bill changes how workers compensation operates and would increase costs dramatically. It would transfer the burden of proof to the employer rather than maintain the “no-fault” system. Because of uncertainties surrounding the state budget and potential negative fiscal impact on municipalities, they urge no action on this bill.

Reported by: Marie Knudsen            Date: April 4, 1019