



<http://www.latimes.com/business/la-fi-comp6dec06,1,19491.story?coll=la-headlines-business>

State pushes to revise workers' comp process

New rules are proposed to penalize insurers that unfairly delay or deny medical treatment.

By Marc Lifsher
Times Staff Writer

December 6, 2006

SACRAMENTO — Gov. Arnold Schwarzenegger's administration is preparing to punish insurance companies that wrongly delay or deny medical care for workers hurt on the job.

Acknowledging growing complaints from workers, the state said new rules were necessary to ensure that workers were not unfairly refused drugs, surgery and other medical procedures that their doctors recommended.

"An unfair delay or denial in medical treatment is probably the worst thing you can do to an injured worker," said Carrie Nevans, acting administrative director of the state Division of Workers' Compensation. "The issue of medical treatment affects 100% of the people in the system."

The changes come more than two years after the governor and Legislature heeded the calls from businesses and overhauled the workers' comp system.

Since then, injured workers and their advocates have complained bitterly about the sweeping new authority given to insurers to second-guess doctors and veto treatment plans.

As a result, workers' comp premiums paid by businesses fell by more than 50% and insurers earned their highest profits in three decades. But workers said it was sometimes at their expense.

Now, the state is proposing to require regular state audits of insurers and fines of as much as \$50,000 for a violation.

The proposed regulations, which are undergoing public comment and could go into effect next year, have drawn strong support from worker advocates and opposition from insurers.

They represent "a first major thrust by the agency to balance out some of the potential downside of the reform legislation," said Frank Neuhauser, a researcher who studies workers' comp and other types of social insurance at UC Berkeley.

Among the proposed fines is a \$50,000 penalty for insurers that do not have a medical director to oversee review decisions. Using people who aren't medical doctors to scrutinize files could result in a \$25,000 penalty. A \$15,000 fine could be levied for failing to provide an expedited review of requests for treatment. Smaller fines, in the hundreds of dollars, would apply to procedural errors. But they could be eliminated once an insurer fixed the problem.

Representatives of the insurance industry call the proposed regulations severe and contend that the high penalties could discourage companies from taking full advantage of the cost savings provided by the 2004 law.

"We want bad actors to be deterred and punished," said Nicole Mahrt of the American Insurance Assn. in Sacramento. "But we are concerned that the regulations are so severe that they would make it more difficult" to properly review cases. "If you make a tiny error, there's a possibility of facing very serious fines."

Business organizations say they support the penalties in principle but call the proposed fines onerous. "This seems to be a little overboard," said Jason Schmelzer of the California Manufacturers & Technology Assn.

Labor unions welcomed the state's proposed rules in written public comments. "This is a solid step in the right direction," said Angie Wei, a lobbyist for the California Labor Federation.

But labor officials also pointed out that the Schwarzenegger administration is addressing workers' concerns only after issuing a half-dozen sets of regulations over the last two years that helped employers quickly save money.

Complaints about medical care for workers center on a process the insurance industry calls "utilization review," first practiced by health maintenance organizations in the 1980s.

The 2004 law cleared the way for insurers to send workers' comp patients' medical records and treatment plans to be reviewed by specialized doctors to ensure that they meet guidelines for proper care.

The doctors, who review the cases but do not examine patients, have the power to deny surgeries, procedures, drugs and medical equipment that aren't specifically outlined in treatment guidelines identified by the 2004 law.

Backers of the workers' comp changes argue that such "evidence-based medicine" is essential to protect injured workers from undergoing unnecessary medical treatments, cut costs and prevent fraud.

An independent study released this year credited the review process with generating about a quarter of the estimated \$8 billion that employers saved from lower premiums compared with what they paid in 2003.

But critics, including the California Medical Assn., contend that the guidelines approved by the state are incomplete and too restrictive. They say the reviewers — often from out of state and unlicensed in California — tend to automatically say no to many common procedures.

What's more, they argue that the reviews sometimes are performed by doctors working outside their medical specialties or, worse, by nurses or insurance company claims adjusters.

But insurers have nothing to worry about if they follow the rules and quickly correct technical violations, regulator Nevans said.

"This whole reform is built around getting prompt, effective medical treatment to get the injured worker back to work as fast as possible," she said. "Improperly handled utilization review does not meet the goals of prompt, effective treatment."

Schwarzenegger spokesman Darrel Ng said, "The administration supports doing the right thing for injured workers."

marc.lifsher@latimes.com

Copyright 2006 Los Angeles Times | [Privacy Policy](#) | [Terms of Service](#)
[Home Delivery](#) | [Advertise](#) | [Archives](#) | [Contact](#) | [Site Map](#) | [Help](#)

PARTNERS:
 