Legislature Turns its Attention to Workers’ Comp
New Bills Target Benefit Notices, Utilization Review, and Pharmacy Costs

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The bill introduction deadline has passed, and the California State Legislature is preparing to move newly introduced bills through a rigorous process of committee hearings and floor votes. The legislature introduced approximately 2,300 new laws for consideration, several dozen of which would have some impact on California’s workers’ compensation system.

Workers’ compensation will once again be front and center as legislators attempt to cut costs and resolve problems, whether real or perceived. So far, CCWC has identified a handful of bills that could be a priority in the coming year.

**AB 438 (Chiu) – Bilingual WC Notices**
This bill requires the State Compensation Insurance Fund, the Department of Industrial Relations, and the Division of Workers’ Compensation to comply with the Dymally-Alatorre Bilingual Services Act. Compliance with this act would require notices from these entities to be provided to injured workers in more languages than English and Spanish, which is the current requirement.

Failure to comply with AB 438 would result in a tolling of any statutory or regulatory timeframe for an injured worker to comply with the requirements of a notice or deadline for one year. CCWC has not yet taken a position on this bill; however, the tolling provisions would provide yet another litigation point that could be exploited in the workers’ compensation system.

**AB 511 (Gipson) – Public Safety Presumptions**
This bill completely rewrites the presumption statutes for public safety officers in California, and the full impact has yet to be analyzed. In addition to re-writing existing presumption statutes, the bill includes a provision that would allow a city council or board of supervisors to expand the applicability of presumptions to currently uncovered public safety officers through local ordinance, amendment of a city charter, or collective bargaining agreement.

CCWC has not yet taken an official position on the bill, but there is a great deal of concern about the potential unintended consequences of re-writing current presumptions law. Additionally, the provision for allowing locally driven expansion of presumptions is unnecessary because this can already be accomplished through negotiating a carve-out with union employees. AB 511 would undermine this negotiation process and instead provide a means by which unions can apply local political pressure as an alternative to good-faith negotiations on a carve-out.

**AB 1124 (Perea) – Pharmacy Formulary**
One of the more exciting developments for employers is the introduction of AB 1124 by Assemblyman Henry Perea (D-Fresno). This bill would require the DWC to establish a formulary for the purpose of prescribing medications in the workers’ compensation system.

A formulary, if properly constructed, would provide injured workers with quick access to needed medications and cut the unnecessary use of highly addictive opioid medications that are prescribed at outrageously high rates in the workers’ compensation system. Additionally, a formulary could significantly reduce expenses associated with Utilization Review and Independent Medical Review because disputes over prescription drugs constitute nearly a third of all UR and IMR requests.

CCWC does not yet have a formal position on AB 1124; however, the implementation of a formulary was identified as a major 2015 priority by the CCWC Board of Directors.

**SB 563 (Pan) – Utilization Review Payment Methodologies**
Medical professionals in the workers’ compensation system have identified the medical treatment request and utilization review processes as major problems in recent years. They claim that the process is slow, onerous, and unfair to physicians and injured workers. SB 563 has been introduced to facilitate a conversation about the utilization review process.

In its current form the bill would require employers, insurers, and utilization review organizations to disclose the payment methodology for each person involved in the process of reviewing, approving, modifying, or denying a treatment request. This information would have to be provided to employees, medical providers, or the public upon request.

CCWC will continue to review the newly-introduced bills and provide more information as the proposals evolve and move closer to the committee hearing process in the state legislature. Visit our Priority Bills page for more information on these bills and others that CCWC is monitoring during the current legislative session.