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SENATE BILL 168:

"Revises provisions governing industrial insurance." To be heard in Senate Commerce and Labor on February 26, 2003, 8 a.m.

BILL SUMMARY:

"AN ACT relating to industrial insurance; revising certain provisions governing the disclosure of information by the Division of Industrial Relations of the Department of Business and Industry relating to an uninsured employer or proof of industrial insurance coverage; requiring a medical facility to submit a claim for compensation within certain period after providing treatment for an injured employee; authorizing a party who is aggrieved by certain determinations of the Division relating to the Uninsured Employers' Claim Account to appeal those determinations to an appeals officer under certain circumstances; requiring a person who wishes to contest a decision of the Administrator of the Division to impose an administrative fine or benefit penalty to file a notice of appeal with an appeals officer within a certain period; and providing other matters properly relating thereto."

ISSUE OVERVIEW:

Insufficient Timeframe for Filing Industrial Accident "C-4" Claims: According to NRS 616C.040, when an industrial accident victim seeks care, the treating chiropractor or physician is only granted 3 working days within which to file a claim for compensation with the employer, the employer's insurance company and/or the employer's third-party administrator. This deadline was established when virtually all employees were covered by the State Industrial Insurance System (SIIS). Three working days was a realistic timeframe when chiropractors and physicians simply had to notify SIIS. However, with the decentralization of industrial insurance and the subsequent proliferation of self-insured and third party insured employers, this 3-day filing deadline is no longer realistic.

Ill-Informed Injured Patient: The challenge arises when an industrial accident victim presents for care, but is either unable or unwilling to provide complete and correct information regarding their employer and/or their employer's insurer or third-party administrator. While employers are legally obligated to obtain industrial insurance, and provide DIR with current information regarding this coverage, employers are not currently obligated to provide employees with sufficient background information on their industrial insurance carrier (e.g. through the issuance of an insurance card) for the employee to use in the event of an industrial accident.

Inability to Access Insurer Database: If the injured employee does not know or is less than forthcoming with complete or correct industrial insurance information, it is very difficult, even with the most diligent of efforts, for the healthcare provider to complete the C-4 form in a timely manner. And while the DIR keeps a central repository of employer's industrial insurance coverage, healthcare providers have not been able to directly access this valuable source of data in the past to assist them in completing C-4 forms in compliance with NRS. And while the DIR staff has been willing to assist with such investigations, it can be very time consuming for DIR with its limited resources to assist providers in their efforts to complete. However, given the extreme challenges with direct collection of information from the injured employee, having direct access to this database of employers/insurers would make completion of the C-4 and compliance with NRS much more efficient and effective.

ER Physician Dilemma: An additional challenge, which is unique to hospital Emergency Rooms, is that while the physician does play a role in gathering information for the C-4 form, they are not solely responsible for completing the form. In this case, the hospital also plays a role in completing and tracking the C-4 form completion process. However, hospital-based Emergency physicians are currently held fully responsible according to NRS for the completion of the claim, when they may in reality only be partially responsible for the actual completion of a C-4 form. And while a great many C-4 forms are successfully completed, there are frequent cases in which, regardless of the efforts of the physician or facility at the time of care or in subsequent follow-up efforts, it is difficult to collect the requisite information to fully complete a C-4 form in 3 days.

UMC CASE STUDY DATA:

- **Total Demand:** From January to November of 2002, UMC cared for 11,891 industrial accident victims, with 47% or 5,550 of these victims being cared for at Quick Cares, Primary Cares and Emergency Room.
- **Causes of Insufficient Claims:** While in many cases sufficient information is gleaned from the patient to fully complete a claim, the following is a sampling of the factors driving the difficulty to fully complete claims in the allowed timeframe, or ever in some cases.
 - In approximately 13% of these 5,550 industrial accident cases, the victim does not have information on the third-party payer or employer name and contact information.
 - An additional 25% of the 5,550 industrial accident cases at these three UMC departments are given incorrect information for processing the claim.
 - Other contributing factors include: difficulty in completing and verifying information in the case of an out-of-state employer or insurance carrier; insufficient completion of forms by physicians, and incomplete or incorrect patient demographic information.
- **Average Costs:** The average cost per industrial accident case visit:
 - Quick Care: \$228
 - Primary Care: \$148
 - Emergency Room: \$1,228
- **Vested Interest to Complete Claims:** With these costs in mind, it is important to note that for every case for which UMC is unable to obtain correct billing information, it is unable to collect payment for the service they render, and in effect, it lose money. As such, UMC or any other provider has a distinct vested interest financially in working hard to obtain correct and complete billing information.
- **3 FTEs Devoted to Tracking:** UMC has three full-time equivalent (FTE) employees, for a total of \$94,869 before benefits, who are devoted to verifying plan coverage and rectifying incomplete industrial accident "C-4" forms. It is estimated that it takes from 2 to 5 days to complete a previously incomplete C-4 form.

PROPOSED AMENDED LANGUAGE:

- **Amendment A:** In an effort to address the inherent filing challenges associated with the industrial accident cases in which the employee is unable or unwilling to provide complete and correct industrial insurance information, the following amendment is proposed. In particular, this amendment, acknowledges that the 3 working day claim filing time frame is insufficient, and that 5 working days is a more realistic time period in which to file the completed forms. This proposed amendment also provides some relief the situations in which, despite a providers sincere due diligence to investigate and find the pertinent industrial insurance information, they are still unable to obtain to fully complete the necessary forms. And finally, it includes the medical facility to help address the issue of shared responsibility between the physician and medical facility in completing these forms.

Section 1. NRS 616C.040 is hereby amended to read as follows:

616C.040 1. A treating physician or chiropractor shall, within {3} 5 working days after he first treats an injured employee for a particular injury, complete and file with the employer of the injured employee and the employer's insurer, a claim for compensation. If the employer is a self-insured employer, the treating physician or chiropractor shall file the claim for compensation with the employer's third-party administrator. If the physician or chiropractor files the claim for compensation by electronic transmission, he shall, upon request, mail to the insurer or third-party administrator the form that contains the original signatures of the injured employee and the physician or chiropractor. The form must be mailed within 7 days after receiving such a request.

2. A claim for compensation required by subsection 1 must be on a form prescribed by the administrator.

3. If a claim for compensation is accompanied by a certificate of disability, the certificate must include a description of any limitation or restrictions on the injured employee's ability to work.

4. Each physician, chiropractor and medical facility that treats injured employees, each insurer, third-party administrator and employer, and the division shall maintain at their offices a sufficient supply of the forms prescribed by the administrator for filing a claim for compensation.

5. The administrator ~~{shall}~~ *may* impose an administrative fine of not more than \$1,000 on ~~{a} the treating physician or chiropractor or medical facility {for each violation of subsection 1.}~~ *if he determines that the physician or chiropractor failed to exercise due diligence in complying with the requirement of subsection 1 to file the claim for compensation with the employer or the employer's insurer or third-party administrator.*

- **Amendment B:** Next, in an effort to address the inadequacy of the existing NRS to require employers to provide their employees with specific industrial insurance provider information, it is recommended that the following language be inserted in the appropriate section of the existing NRS:

- "Upon the time of hiring or rehiring of an employee, or any time an employer changes its industrial insurance carrier, the employer must furnish an industrial insurance information card, containing the employer's and industrial insurance carrier's name, contact information, the insurance policy number and any other pertinent coverage information, to all of its employees."

And finally, we applaud the DIR's promise to grant healthcare providers with direct and immediate access to its employer/insurer database, for the purposes of completing the C-4 claims in a timely manner. For in identifying ways in which to help streamline this process, the DIR will help to increase the effectiveness and efficiency of the processing of industrial accident claims. And most importantly, it will ultimately help to ensure that the patient is receiving full access to the necessary and appropriate medical care to treat his or her injury.