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SB 168

University Medical Center

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Comments as of March 6, 2003

- A. We concur with DIR staff's proposed amendment with regard to the inclusion of a reference in the bill to the delegation of filing responsibility from the chiropractor or physician to a medical facility.
- B. We withdraw our proposed amendment that changed the filing deadline from 3 to five working days.
- C. We continue to stay firm in our proposal of the following amendment with regard to giving DIR discretion in imposing fines if the filing party has not exercised proper due diligence in completing and filing a claim on time. It appears that DIR staff is willing to change the "shall" to "may", however, they appear to be unwilling to include "due diligence" language. Their reasoning for excluding due diligence language is that similar language is not, and should not be, included in other sections of the industrial insurance statutes, specifically sections: 616C.010, 616C.015, 616C.020, 616C.045. These other sections refer to requirements placed upon employers and employees who have direct access to industrial insurance information, and thus should not have any problem complying with existing regulations. Conversely, chiropractors, physicians or their designees do not have direct access to industrial insurance information and as a result, have a distinct difficulty in complying with the existing regulations. 1) In light of this fact, we believe it is reasonable to change only section 616C.040 as referenced below, and leave the other sections without any changes. 2) In addition, we believe that in changing section 616C.040 to give the Administrator discretion in imposing a fine, it is reasonable to include due diligence language to establish a standard by which any fines would be imposed.
 - 5. The administrator ~~{shall}~~ *may* impose an administrative fine of not more than \$1,000 on ~~{a}~~ *the treating physician or chiropractor* ~~{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.*
- D. We withdraw our amendment proposing that specific language be included in the bill that would require the issuance of an industrial insurance notification card to each employee. This withdrawal is based on the understanding that DIR staff currently has the authority to impose regulations to require additional employee noticing, and that DIR staff has expressed a willingness to conduct a hearing process to actively strive towards developing enhanced regulations requiring that some sort of direct notification of industrial insurance coverage be provided from the employer to the employee, above and beyond the levels of noticing that are currently required.