

SENATE BILL NO. 353—SENATOR HORSFORD

MARCH 19, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the selection of treating physicians or chiropractors by injured employees covered by industrial insurance. (BDR 53-1061)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; authorizing an injured employee to select a new treating physician or chiropractor under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law regarding industrial insurance provides that if the insurer of an
2 injured employee's employer has entered into a contract with an organization for
3 managed care or with providers of health care services, then the injured employee
4 must select his treating physician or chiropractor pursuant to the terms of that
5 contract. (NRS 616C.090) Alternatively, if the insurer of an injured employee's
6 employer has not entered into such a contract, then the injured employee must
7 select his treating physician or chiropractor from a panel provided by the
8 Administrator of the Division of Industrial Relations of the Department of Business
9 and Industry. (NRS 616C.090) **Section 2** of this bill provides that if the
10 injured employee's treating physician or chiropractor approves the return of the
11 injured employee to work but the injured employee does not agree, then the injured
12 employee may select any physician or chiropractor in this State to be his new
13 treating physician or chiropractor and his treatment may continue. **Section 2** also
14 provides for the payment of the new treating physician or chiropractor. The
15 remaining sections of the bill amend existing provisions to account for the injured
16 employee's option to select a new treating physician or chiropractor pursuant to
17 **section 2**.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 616B.527 is hereby amended to read as follows:

616B.527 1. A self-insured employer, an association of self-insured public or private employers or a private carrier may:

(a) Except as otherwise provided in NRS 616B.5273, enter into a contract or contracts with one or more organizations for managed care to provide comprehensive medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(b) Enter into a contract or contracts with providers of health care, including, without limitation, physicians who provide primary care, specialists, pharmacies, physical therapists, radiologists, nurses, diagnostic facilities, laboratories, hospitals and facilities that provide treatment to outpatients, to provide medical and health care services to employees for injuries and diseases that are compensable pursuant to chapters 616A to 617, inclusive, of NRS.

(c) ~~[Require]~~ *Except as otherwise provided in section 2 of this act, require* employees to obtain medical and health care services for their industrial injuries from those organizations and persons with whom the self-insured employer, association or private carrier has contracted pursuant to paragraphs (a) and (b), or as the self-insured employer, association or private carrier otherwise prescribes.

(d) Except as otherwise provided in subsection 3 of NRS 616C.090 ~~[and]~~ *and section 2 of this act*, require employees to obtain the approval of the self-insured employer, association or private carrier before obtaining medical and health care services for their industrial injuries from a provider of health care who has not been previously approved by the self-insured employer, association or private carrier.

2. An organization for managed care with whom a self-insured employer, association of self-insured public or private employers or a private carrier has contracted pursuant to this section shall comply with the provisions of NRS 616B.528, 616B.5285 and 616B.529.

Sec. 2. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the treating physician or chiropractor of an injured employee approves the return of the injured employee to work but the injured employee does not agree with the decision of the treating physician or chiropractor, the injured employee may choose another treating physician or chiropractor in this State to replace the previous treating physician or chiropractor. If the



1 *injured employee chooses a treating physician or chiropractor*
2 *pursuant to this section, the decision of the previous treating*
3 *physician or chiropractor that the injured employee may return to*
4 *work is void, and the injured employee must continue receiving*
5 *treatment or be approved to return to work in accordance with the*
6 *decisions of the treating physician or chiropractor chosen*
7 *pursuant to this section. The injured employee may choose as his*
8 *treating physician pursuant to this section any physician or*
9 *chiropractor in this State without regard to whether the physician*
10 *or chiropractor is a member of the panel of physicians and*
11 *chiropractors established pursuant to NRS 616C.090. The injured*
12 *employee may not choose a treating physician or chiropractor*
13 *pursuant to this section more than once, but may choose a treating*
14 *physician or chiropractor pursuant to this section without regard*
15 *to the number of treating physicians or chiropractors he may have*
16 *chosen pursuant to other provisions of law.*

17 2. *If the insurer of the employer of the injured employee has*
18 *entered into a contract with an organization for managed care or*
19 *with a provider of health care services pursuant to NRS 616B.527,*
20 *the insurer shall, if the physician or chiropractor chosen pursuant*
21 *to this section accepts the terms of the contract, reimburse the*
22 *physician or chiropractor for any services provided by him to the*
23 *injured employee in the same manner as a physician or*
24 *chiropractor pursuant to the contract. If the insurer has not*
25 *entered into such a contract or the physician or chiropractor*
26 *chosen pursuant to this section does not accept the terms of the*
27 *contract, the insurer shall reimburse the physician or chiropractor*
28 *for any services provided by him to the injured employee in the*
29 *same manner as a physician or chiropractor who is a member of*
30 *the panel of physicians and chiropractors established pursuant to*
31 *NRS 616C.090.*

32 3. *Except as otherwise provided in subsection 2, any payment*
33 *received by a physician or chiropractor chosen pursuant to this*
34 *section for providing services to an injured employee must not be*
35 *less than the amount established for the service by the*
36 *Administrator pursuant to NRS 616C.260.*

37 4. *The Administrator shall design a form for notifying an*
38 *injured employee of his right to select a treating physician or*
39 *chiropractor pursuant to this section and make the form available*
40 *to each insurer for distribution pursuant to subsection 2 of*
41 *NRS 616C.050.*

42 5. *If a dispute arises pursuant to this section, the insurer*
43 *shall, as soon as practicable after the dispute arises, issue a*
44 *written determination concerning the dispute. Any person who is*
45 *aggrieved by a written determination issued pursuant to this*



subsection may appeal the determination in accordance with the provisions of NRS 616C.315 to 616C.385, inclusive.

Sec. 3. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090 ~~and~~ *and section 2 of this act.*

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the ~~form~~ *forms* designed by the Administrator pursuant to subsection 7 of NRS 616C.090 ~~[that notifies injured employees of their]~~ *and subsection 4 of section 2 of this act for notifying each employee of his* right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 4. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of



1 health care services pursuant to NRS 616B.527 shall maintain a list
2 of those physicians and chiropractors on the panel who are
3 reasonably accessible to his employees.

4 2. ~~[Am]~~ *Except as otherwise provided in section 2 of this act,*
5 *an* injured employee whose employer's insurer has not entered into
6 a contract with an organization for managed care or with providers
7 of health care services pursuant to NRS 616B.527 may choose his
8 treating physician or chiropractor from the panel of physicians and
9 chiropractors. If the injured employee is not satisfied with the first
10 physician or chiropractor he so chooses, he may make an alternative
11 choice of physician or chiropractor from the panel if the choice is
12 made within 90 days after his injury. The insurer shall notify the
13 first physician or chiropractor in writing. The notice must be
14 postmarked within 3 working days after the insurer receives
15 knowledge of the change. The first physician or chiropractor must
16 be reimbursed only for the services he rendered to the injured
17 employee up to and including the date of notification. Except as
18 otherwise provided in this subsection, any further change is subject
19 to the approval of the insurer, which must be granted or denied
20 within 10 days after a written request for such a change is received
21 from the injured employee. If no action is taken on the request
22 within 10 days, the request shall be deemed granted. Any request for
23 a change of physician or chiropractor must include the name of the
24 new physician or chiropractor chosen by the injured employee. If
25 the treating physician or chiropractor refers the injured employee to
26 a specialist for treatment, the treating physician or chiropractor shall
27 provide to the injured employee a list that includes the name of each
28 physician or chiropractor with that specialization who is on the
29 panel. After receiving the list, the injured employee shall, at the time
30 the referral is made, select a physician or chiropractor from the list.

31 3. ~~[Am]~~ *Except as otherwise provided in section 2 of this act,*
32 *an* injured employee whose employer's insurer has entered into a
33 contract with an organization for managed care or with providers of
34 health care services pursuant to NRS 616B.527 must choose his
35 treating physician or chiropractor pursuant to the terms of that
36 contract. If the injured employee is not satisfied with the first
37 physician or chiropractor he so chooses, he may make an alternative
38 choice of physician or chiropractor pursuant to the terms of the
39 contract if the choice is made within 90 days after his injury. If the
40 injured employee, after choosing his treating physician or
41 chiropractor, moves to a county which is not served by the
42 organization for managed care or providers of health care services
43 named in the contract and the insurer determines that it is
44 impractical for the injured employee to continue treatment with the
45 physician or chiropractor, the injured employee must choose a



1 treating physician or chiropractor who has agreed to the terms of
2 that contract unless the insurer authorizes the injured employee to
3 choose another physician or chiropractor. If the treating physician or
4 chiropractor refers the injured employee to a specialist for treatment,
5 the treating physician or chiropractor shall provide to the injured
6 employee a list that includes the name of each physician or
7 chiropractor with that specialization who is available pursuant to the
8 terms of the contract with the organization for managed care or with
9 providers of health care services pursuant to NRS 616B.527, as
10 appropriate. After receiving the list, the injured employee shall, at
11 the time the referral is made, select a physician or chiropractor
12 from the list. If the employee fails to select a physician or
13 chiropractor, the insurer may select a physician or chiropractor with
14 that specialization. If a physician or chiropractor with that
15 specialization is not available pursuant to the terms of the contract,
16 the organization for managed care or the provider of health care
17 services may select a physician or chiropractor with that
18 specialization.

19 4. Except when emergency medical care is required and except
20 as otherwise provided in NRS 616C.055 ~~§~~ *and section 2 of this*
21 *act*, the insurer is not responsible for any charges for medical
22 treatment or other accident benefits furnished or ordered by any
23 physician, chiropractor or other person selected by the injured
24 employee in disregard of the provisions of this section or for any
25 compensation for any aggravation of the injured employee's injury
26 attributable to improper treatments by such physician, chiropractor
27 or other person.

28 5. The Administrator may order necessary changes in a panel
29 of physicians and chiropractors and shall suspend or remove any
30 physician or chiropractor from a panel for good cause shown.

31 6. An injured employee may receive treatment by more than
32 one physician or chiropractor if the insurer provides written
33 authorization for such treatment.

34 7. The Administrator shall design a form that notifies injured
35 employees of their right pursuant to subsections 2 and 3 to select an
36 alternative treating physician or chiropractor and make the form
37 available to insurers for distribution pursuant to subsection 2 of
38 NRS 616C.050.

39 **Sec. 5.** NRS 616C.265 is hereby amended to read as follows:

40 616C.265 1. Except as otherwise provided in NRS 616C.280,
41 every employer operating under chapters 616A to 616D, inclusive,
42 of NRS, alone or together with other employers, may make
43 arrangements to provide accident benefits as defined in those
44 chapters for injured employees.



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2. Employers electing to make such arrangements shall notify the Administrator of the election and render a detailed statement of the arrangements made, which arrangements do not become effective until approved by the Administrator.

3. Every employer who maintains a hospital of any kind for his employees, or who contracts for the hospital care of injured employees, shall, on or before January 30 of each year, make a written report to the Administrator for the preceding year, which must contain a statement showing:

(a) The total amount of hospital fees collected, showing separately the amount contributed by the employees and the amount contributed by the employers;

(b) An itemized account of the expenditures, investments or other disposition of such fees; and

(c) What balance, if any, remains.

4. Every employer who provides accident benefits pursuant to this section:

(a) Shall, in accordance with regulations adopted by the Administrator, make a written report to the Division of his actual and expected annual expenditures for claims and such other information as the Division deems necessary to calculate an estimated or final annual assessment and shall, to the extent that the regulations refer to the responsibility of insurers to make such reports, be deemed to be an insurer.

(b) Shall pay the assessments collected pursuant to NRS 232.680 and 616A.430.

5. The reports required by the provisions of subsections 3 and 4 must be verified:

(a) If the employer is a natural person, by the employer;

(b) If the employer is a partnership, by one of the partners;

(c) If the employer is a corporation, by the secretary, president, general manager or other executive officer of the corporation; or

(d) If the employer has contracted with a physician or chiropractor for the hospital care of injured employees, by the physician or chiropractor.

6. No employee is required to accept the services of a physician or chiropractor provided by his employer, but may seek professional medical services of his choice as provided in NRS 616C.090 ~~§~~ *and section 2 of this act*. Expenses arising from such medical services must be paid by the employer who has elected to provide benefits, pursuant to the provisions of this section, for his injured employees.

7. Every employer who fails to notify the Administrator of such election and arrangements, or who fails to render the financial



1 reports required, is liable for accident benefits as provided by
2 NRS 616C.255.

3 **Sec. 6.** NRS 616C.475 is hereby amended to read as follows:

4 616C.475 1. Except as otherwise provided in this section,
5 NRS 616C.175 and 616C.390, every employee in the employ of an
6 employer, within the provisions of chapters 616A to 616D,
7 inclusive, of NRS, who is injured by accident arising out of and in
8 the course of employment, or his dependents, is entitled to receive
9 for the period of temporary total disability, 66 2/3 percent of the
10 average monthly wage.

11 2. Except as otherwise provided in NRS 616B.028 and
12 616B.029, an injured employee or his dependents are not entitled to
13 accrue or be paid any benefits for a temporary total disability during
14 the time the injured employee is incarcerated. The injured employee
15 or his dependents are entitled to receive such benefits when the
16 injured employee is released from incarceration if he is certified as
17 temporarily totally disabled by a physician or chiropractor.

18 3. If a claim for the period of temporary total disability is
19 allowed, the first payment pursuant to this section must be issued by
20 the insurer within 14 working days after receipt of the initial
21 certification of disability and regularly thereafter.

22 4. Any increase in compensation and benefits effected by the
23 amendment of subsection 1 is not retroactive.

24 5. Payments for a temporary total disability must cease when:

25 (a) A physician or chiropractor determines that the employee is
26 physically capable of any gainful employment for which the
27 employee is suited, after giving consideration to the employee's
28 education, training and experience;

29 (b) The employer offers the employee light-duty employment or
30 employment that is modified according to the limitations or
31 restrictions imposed by a physician or chiropractor pursuant to
32 subsection 7; or

33 (c) Except as otherwise provided in NRS 616B.028 and
34 616B.029, the employee is incarcerated.

35 6. Each insurer may, with each check that it issues to an injured
36 employee for a temporary total disability, include a form approved
37 by the Division for the injured employee to request continued
38 compensation for the temporary total disability.

39 7. A certification of disability issued by a physician or
40 chiropractor must:

41 (a) Include the period of disability and a description of any
42 physical limitations or restrictions imposed upon the work of the
43 employee;

44 (b) Specify whether the limitations or restrictions are permanent
45 or temporary; and



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(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 of NRS 616C.090 ~~H~~ or section 2 of this act.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

