



NEWS / PROFESSION

Calif. Legislator Pulls Pro-Chiropractic Work Comp Bill

CCA MEETS WITH INSURERS, EMPLOYERS TO FIND POSITIVE SOLUTIONS

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On June 28, 2006, Assemblyman Leland Yee requested that the state legislature cancel a hearing on Assembly Bill 1209, a proposed law supported by the California Chiropractic Association that would have removed a 24-visit limit on chiropractic services for injured workers. In exchange for canceling the hearing, which effectively terminated the bill's progress through the legislature, representatives from employer and insurance groups have agreed to meet periodically with CCA officials to create solutions that would provide injured workers with adequate access to doctors of chiropractic without creating additional changes to the state's labor code.



Assembly Bill 1209 was introduced by Assemblyman Yee in response to a series of laws signed into law by then-Gov. Gray Davis in 2003 in an effort to overhaul California's workers' compensation

system. Among the bills signed by Gov. Davis was Senate Bill 228, which revised the California Labor Code by imposing a cap on the number of visits injured workers could make to a doctor of chiropractic for treatment and evaluation.

Prior to the implementation of SB 228, California had no limit on the number or frequency of visits an injured worker could make to a chiropractor for a work-related injury. Upon its passage, however, the bill mandated that employees be entitled "no more than 24" chiropractic visits per industrial injury for any injuries incurred on or after Jan. 1, 2004, except when authorized in writing by an employer.¹

While the provisions contained in SB 228 helped to reduce much of the waste and excessive spending that had plagued the state's workers' compensation system over the previous decade, the bill's 24-visit cap on chiropractic services also had a deleterious effect on the chiropractic profession. According to a study published by the California Workers' Compensation Institute in 2005, the number of chiropractic visits recorded up to nine months after a work-related injury declined from an average of 28.5 in 2002 to 12.6 in 2004, a reduction of 55.8 percent. Similarly, the average amount paid per claim for chiropractic manipulation fell by more than 60 percent, from an average of \$1,139 in 2002 to just \$445 in 2004.²

In response to the bill's negative effects on the practices of dozens of doctors of chiropractic, and with the full support of the CCA, Yee introduced AB 1209, which would have allowed chiropractors the freedom to treat injured patients without being subject to a maximum number of visits. Rather than attempting to rewrite the labor code, the bill took the direct route of deleting a section of the code relating to chiropractic in its entirety, effectively removing the 24-visit limit on chiropractic services.

At the time the hearing was canceled, AB 1209 appeared well on its way to passing both houses of the California legislature. Introduced in February 2006, the bill was passed by the Assembly 46-28 on April 18 and was summarily sent to the Senate, where it was introduced the same day and submitted to the Senate Committee on Labor and Industrial Relations for further review.

In an e-mail to *Dynamic Chiropractic*, Kristine Shultz, the CCA's director of government affairs, explained the rationale behind the decision to cancel AB 1209, emphasizing that the CCA would continue to work with employer and insurer groups, along with Assemblyman Yee, to find a positive solution for all parties involved.³

"CCA met with representatives from the California Chamber of Commerce, California Coalition on Workers' Compensation, California Restaurant Association, California Grocers Association, American Insurance Association and Association of California Insurance Companies to discuss their opposition to AB 1209. After discussing the reasons for the bill, representatives from these groups explained that there was no way they would remove their opposition from AB 1209. The employer and insurer community has taken the position that they will not even consider supporting any changes to the workers' compensation system this year. However, they admitted that they would not be able to hold that position for long, and they were interested to hear about the problems that doctors of chiropractic were experiencing to see if there was a way to solve some of those problems proactively, without having to go to the legislature. They agreed that there are some employers and insurers that have taken advantage of the reforms. They want to curb any such abuses so the main tenants of the reforms are not challenged by lawmakers, and businesses can continue to see their workers' compensation rates decrease."

Among the issues discussed between CCA and the other agencies' representatives were problems

related to the American College of Occupational and Environmental Medicine's guidelines for "medically necessary" care, restriction of direct access to doctors of chiropractic, reduction of workers' compensation bills by insurance companies, and electronic billing. Based on the progress made at the meeting, the CCA made the decision to work with insurers and employers directly, rather than forcing a change to the labor code via new legislation.

"AB 1209 did achieve a primary objective of CCA's in that it brought to the table and led to serious discussions with the employer and insurance communities about the barriers faced by doctors of chiropractic and their patients resulting from the workers' compensation reforms," Shultz wrote. "Since we had such a productive meeting and a commitment for regular communication and cooperation, it made sense for us to pull AB 1209 and work cooperatively with the insurer and employer community. Additionally, Leland Yee's office met with the governor's staff and the staff confirmed that the governor would not sign any workers' compensation bill, including AB 1209, until after the Division of Workers' Compensation completes a study of the system to see where changes needed to be made."

According to Shultz, the next round of meetings will take place between CCA officials and representatives from workers' compensation insurers, with the hope of reaching a fair and equitable solution by January 2007. Should the insurance industry or employer groups renege on their pledge to work together, however, the association will not hesitate to turn to Assemblyman Yee to have the problems associated with the workers' compensation system resolved through the legislative process.

"The next meeting will be between CCA and the claims department managers for several major workers' compensation insurance carriers in the state," wrote Shultz. "We will bring examples of inappropriate denials and hopefully get useful information from them that will assist our doctors in getting paid for medically necessary care. Assembly Member Leland Yee's staff made it clear to the employer and insurer lobbyists that if they went back on their word and did not meet with CCA in good faith to solve these problems by January, Leland Yee would reintroduce legislation and solve the problems that way."

References

1. California caps chiropractic workers' comp visits. *Dynamic Chiropractic*, Oct. 20, 2003. www.chiroweb.com/archives/21/22/17.html.
2. *Early Returns on Workers' Comp Medical Reforms: Part 2. The Utilization & Cost of Physical Therapy and Chiropractic Manipulation in California Workers' Comp Following Implementation of Mandatory UR and 24-Visit Caps*. California Workers' Compensation Institute, 2005. Available online at www.cwci.org.
3. E-mail from Kristine Shultz to *Dynamic Chiropractic*, July 20, 2006.

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