



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Labor and
Workforce Development

Office of the Commissioner

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April 5, 2017

The Honorable Matt Claman
House Judiciary Chair
State Capitol, Room 118
Juneau, AK 99801

Dear Chair Claman:

Thank you for the opportunity to provide testimony in support of HB 79 on March 31, 2017. To clarify some of the questions raised by the committee, I have provided the following responses.

1. Under the Alaska Workers' Compensation Act, May Non-Attorneys Charge Fees for Representation?

Non-attorney representatives cannot charge any kind of fee for their services representing or advising workers' compensation claimants, and if they do, they are subject to criminal penalties under AS 23.30.260.

2. To Whom is the Penalty Paid for a Failure to Timely Pay or Deny Medical Treatment?

Currently, penalties due for failure to timely pay or deny a medical bill go to the medical provider, and penalties due for failure to timely pay or deny a claimant's reimbursement request go to the claimant. Under HB 79, penalties due for a failure to timely preauthorize or deny a provider's written request for medical treatment would go to the injured worker. This is because the injured workers is the person harmed by the delay in waiting for the requested medical treatment.

3. Is There a Mechanism in Place to Ensure All Employers Have Some Means of Procuring Workers' Compensation Insurance?

Yes. In general, most employers are under a statutory obligation to obtain workers compensation insurance and provide its employees with medical benefits and compensation for lost wages due to injury, occupational disease, or death arising from the employee's employment. Typically this coverage is purchased from a "voluntary" market insurance carrier; e.g. the carrier willingly writes a policy for that particular employer to cover its workers' compensation risk. For a number of reasons, some employers are unable to obtain workers compensation insurance in the voluntary market. These reasons include, unstable financial status, poor loss experience, new businesses with no prior experience, or the inherently dangerous or hazardous nature of the work performed by the employer. In Alaska, this includes, for example, many seasonal guide operations and construction workers.

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If an employer has been declined coverage by at least two voluntary carriers, it may apply for insurance through the workers' compensation assigned risk plan. The assigned risk plan has two separate mechanisms for providing coverage and services to employers: direct assignment or pool membership. Every insurer writing workers' compensation in Alaska must either receive direct assignments or maintain membership in the pool (see AS 21.39.155(a), 3 AAC 30.010). Under the direct assignment option, an applicant/employer is matched with a carrier who services the policy and pays claims, just like they would a voluntary policy; the total volume of such assignments is based on each insurer's voluntary market share. Under the pool option, an applicant is matched with one of a few "servicing carriers" (who together service all of the policies in the pool) but the claims experience are shared equitably among all pool members based on their voluntary market share—i.e. via a reinsurance pooling mechanism.

4. What Does 2.5% of the Workers' Compensation Premiums Written Equate to on an Annual Basis? How Will the Change to the Amount of Revenue Going to the General Fund Affect Future Budgets?

Based on FY16 Workers' Compensation premiums written, the 2.5% would equate to \$7 million annually. This will be an increase of \$1.89 million from the current 1.88% of the total that is deposited into the Workers' Safety and Compensation Administration Account (WSCAA).

In FY2013, the state moved \$2 million of required state match funding for workers' safety programs from WSCAA to the General Fund due to WSCAA fund sufficiency problems. By increasing the amount of the Workers' Compensation premium fee deposited into WSCAA, we could propose in a future budget to move this state match requirement back onto WSCAA and off of the General Fund. WSCAA was specifically established to support these workers' safety programs and workers' compensation administration.

Please don't hesitate to contact me if you have additional questions.

Sincerely,



Heidi Drygas
Commissioner