



American Association of Preferred Provider Organizations

September 12, 2016

Hon. Mauree Gingrich
Hon. John Galloway
Labor & Industry Committee
106 Ryan Office Building
PO Box 202101
Harrisburg, PA 17120-2101

RE: Comments Concerning House Bill 1141 Amending the Workers Compensation Act

Dear Chairwoman Gingrich, Chairman Galloway and Committee Members:

Thank you for the opportunity to submit comments concerning House Bill 1141. The American Association of Preferred Provider Organizations (“AAPPO”) is the leading national association of preferred provider (“PPOs”) and Workers’ Compensation organizations. Through our members, we work on behalf of thousands of injured workers throughout the country, including in the Commonwealth of Pennsylvania.

We are concerned that HB 1141 proposes changes to the workers’ compensation system in Pennsylvania that will unnecessarily disrupt employee access to a broader selection of health care providers and that will needlessly increase costs to employers by adding additional steps to contracting for the formation and maintenance of a bona fide provider network. While we appreciate Representative Saylor’s efforts, we strongly believe the application of these proposed policies will fundamentally upend a system that has historically allowed the state to keep workers compensation costs low. In addition, the proposed legislation would create numerous and unnecessary administrative costs and burdens on insurers and providers within the state. The impact of this will ultimately create undue burdens for injured workers.

Additionally, AAPPO is concerned with the Fee Review System proposal. Under this bill, the Workers’ Compensation Bureau would have the responsibility of reviewing every contract between every medical provider, carrier, and employer. Additional staff and resources would be necessary to support this initiative, therefore incurring additional costs which would be passed to Pennsylvania employers.

Network Contracting and Access to Providers

In changes to Section 306, H.B. 1141 amends the types of providers that may be listed as “designated health care providers” by specifying that various entities listed, including networks, must be licensed and have a National Provider Identifier or NPI. While we have no specific expertise in some of the other entities referenced, the requirements on networks need to be amended in light of other Pennsylvania law. First, the Commonwealth approves networks through applications to the Insurance Department and Department of Health, but does not issue a license. Furthermore, networks do not receive NPIs. These requirements should be clarified to accept agency approval in addition to licensure and that NPIs be required when applicable.

Of greater concern to us are amendments to Section 306 regarding case management and coordination of services. While the amendments acknowledge the application utility of a bona fide provider network, the contracting requirements contained in those amendments appear to severely limit the ability to structure and maintenance of adequate networks. The amendments require “direct” and “exclusive” provider agreements between the employer or insurer (or their agent) and the provider. While we agree that access to providers must be contractual, the definition of what constitutes a “direct” contract is critical. Our concern stems from the number of necessary instances in which a provider agreement with a bona fide provider network may not meet the requirements under these amendments. For example, a network may have acquired contracts under a different name through a merger or acquisition. Similarly, a network may partner with another network to offer the injured workers access to increased provider choice. If networks are not allowed to acquire contracts through acquisition or to work with subnetworks this legislation will impair their ability to assure adequacy and access to providers in a changing environment.

Furthermore, clarifications on the meaning of “direct” are necessary given the frequency that employers and insurers utilize the services of Third Party Administrators, Managing General Agents, and Managing General Underwriters. All of these entities, licensed by the Commonwealth, typically have contractual relationships with networks for the benefit of their clients. We are concerned that these arrangements may be prohibited if not deemed direct, which would cause a significant change in the market by limiting injured workers access to providers and reducing competition.

Fee Review and Reporting Requirements

Finally, AAPPO is concerned about the tight deadlines and ambiguity concerning reporting arrangements with the Department of Labor and Industry. Given the severe penalties contained in the legislation, we are concerned about the short (72 hour) time period that insurers and employers have to notify the Department about their arrangements with entities assisting them with case management and coordination of services, and to whom that would apply. Nationally, notification to a state agency is not required and changes would be posted on a website within 45 days of the contract being accepted. This represents a significant intrusion into private contracting by the Commonwealth.

Conclusion

In closing, we strongly encourage the Labor & Industry Committee to withdraw HB 1141 or remove the contractual provisions in the bill. We believe that if HB 1141 is passed, there will be significant and unnecessary challenges to providers, insurers and injured workers throughout the state.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Julian Roberts". The signature is fluid and cursive, with a large initial "J" and "R".

Julian Roberts

President and CEO

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