



**Written Testimony of Secretary Kathy Manderino  
Department of Labor & Industry  
before the House Labor and Industry Committee**

**Harrisburg, Pennsylvania  
September 13, 2016**

Good morning Chairman Gingrich, Chairman Galloway, Committee Members and Committee Staff. I appreciate the opportunity to testify today before the House Labor and Industry Committee regarding House Bill 1141 and payments to health care providers under the Workers' Compensation Act. My name is Michael Vovakes and I am the Deputy Secretary for Compensation and Insurance in the Department of Labor and Industry. With me today is Scott Weiant, the Director of the Bureau of Workers' Compensation.

House Bill 1141 seeks to make significant changes to the way in which health care providers in Pennsylvania obtain payment for treatment provided to injured workers. The impact of this legislation on all participants in the workers' compensation system would be extensive. Notably, the costs to the Department related to the implementation of this proposal would be substantial.

This legislation places additional burdens on both the Bureau of Workers' Compensation and on the Workers' Compensation Office of Adjudication. The Bureau would be required to make a considerable additional investment in information technology infrastructure in order to develop the required system to allow providers electronic access to injury reports and to Notices of Compensation Payable. The development of such a system, including the appropriate security protocols, is estimated to cost \$5 million over the next two years. The bill further requires that the Bureau develop and implement this system within 30 days after its effective date, something that is quite simply not feasible.

Equally concerning is the impact that this legislation would have on the Workers' Compensation Office of Adjudication. This bill expands the role of Workers' Compensation Judges, creates new causes of action and incentivizes litigation. Fundamentally, this bill appears to make Workers' Compensation Judges responsible for enforcing or voiding private contractual arrangements between providers and networks. It is not the role of the workers' compensation adjudication system to resolve private contractual disputes. Those disputes are properly within the jurisdiction of the judicial system, not an administrative tribunal. The bill creates new

causes of action before Workers' Compensation Judges by allowing healthcare providers to file penalty petitions and obtain substantial interest and penalties from insurance carriers or other responsible parties, amounts that in some cases exceed the penalties available to injured workers whose benefit payments are delayed. The bill also imposes deadlines for the conduct of hearings and the rendering of decisions on petitions for violations of the provisions related to healthcare providers that exceed deadlines on petitions filed by or decisions involving injured workers and therefore appears to give precedence to the reimbursement of healthcare providers over the determination of benefits due to injured workers. The availability of significant interest, penalties and fines, some of which are not discretionary, from insurers or other responsible parties will undoubtedly increase litigation before Workers' Compensation Judges and tax the adjudication process that determines the claims of injured workers.

It is also unclear how this proposal would impact that Uninsured Employer Guaranty Fund, and whether the statutory exemption on the payment of penalties from the UEGF would extend to the penalties that are created by this bill. Additional ambiguity exists in this legislation in terms of responsibility for enforcement of criminal provisions related to referral of an injured employee to a healthcare provider without bona fide case management or coordination of care services and the prohibition of solicitation of a provider to accept discounts below fee scheduled by threat of negative economic, patient access or reimbursement consequences. If it is expected that the Department will participate in the enforcement of these provisions, such responsibility will also increase the Department's overall costs of administering the workers' compensation system.

This legislation contains many other provisions that will increase costs for Pennsylvania employers and insurance carriers, which I am confident that other witnesses before this committee will explain in detail. However, it is worth noting that the costs to the insurance industry will be sizeable, as carriers will not only have difficulty availing themselves of network discounts and therefore pay a resultant increase in medical expenses, but they will also encounter significant increases in litigation costs, penalties and interest. In addition, they will also face mandates to implement changes to IT systems. Inevitably, the increase in expenditures will be passed on to Pennsylvania employers in the form of higher premiums.

In addition to those obvious costs, this bill also creates a substantial risk of adverse impact on the ability of claimants to receive treatment for work-related injuries. It appears from the provisions of HB 1141 that providers wish to verify the eligibility of a claimant for workers' compensation benefits before rendering treatment. However, in many cases a First Report of Injury may not have a comprehensive injury description or a claimant's injury may evolve over time and additional treatment might be required. The possibility that a provider might refuse treatment for an injury that has not yet been determined to be work-related is concerning.

Because of the substantial cost associated with this legislation, the incentives for additional litigation that it creates, the ambiguity of certain provisions and the possibility that it could impact the care provided to injured workers, the Department of Labor and Industry opposes the passage of House Bill 1141 in its current form.

The existing workers' compensation system in Pennsylvania is designed to keep the cost of injury care in check. The provisions of Act 44 of 1993 and Act 57 of 1996 and the resulting cost containment regulations have been important steps in controlling medical costs while ensuring that injured workers receive proper and timely treatment for their work-related injuries. The fact that injured workers are overwhelmingly satisfied with the treatment that they receive is proof that Pennsylvania's workers' compensation system is on the correct path.

To conclude, I would again like to thank this committee for the opportunity to testify today regarding HB 1141 and health care provider payments.

The Department of Labor & Industry will remain devoted to working with injured workers, employers, insurance carriers and health care providers to find meaningful improvements in the workers' compensation system that benefit all stakeholders.

Thank you, and we would be glad to answer any questions that you may have.