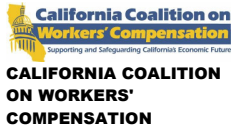




CALIFORNIA STATE
ASSOCIATION OF
COUNTIES



DATE: June 16, 2010

TO: The Honorable Mark DeSaulnier
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Rm. 545
Sacramento, CA 95814

FROM: Eraina Ortega, California State Association of Counties
Natasha Karl, League of California Cities
Paul Smith, Regional Council of Rural Counties
Julianne Broyles, California Association of Joint Powers
Authorities
Jason Schmelzer, California Coalition on Workers' Compensation
Michael Corbett, CSAC-Excess Insurance Authority
Amber Wiley, Alpha Fund
Iris Herrera, California Special Districts Association
Whitnie Henderson, Association of California Water Agencies

Re: **AB 933 (Fong) – Workers' Compensation:
medical treatment – OPPOSE
Set for Hearing June 23, 2010 – Senate Labor and Industrial
Relations Committee**

The California State Association of Counties (CSAC), the League of California Cities (LCC), the Regional Council of Rural Counties (RCRC), the California Association of Joint Powers Authorities (CAJPA), the California Coalition on Workers Compensation (CCWC), the CSAC-Excess Insurance Authority (CSAC-EIA), the Alpha Fund, the California Special Districts Association (CSCA), and the Association of California Water Agencies (ACWA) regret that we must oppose Assembly Bill 933 because it would create a logjam of utilization review requests and increase the cost of this expense for both insured and self-insured employers.

CA Licensing of UR Doctors

AB 933 would require any physician who modifies, delays, or denies a request for treatment in a workers' compensation claim to be licensed in the State of California. We do not support the addition of this provision because there is no evidence that it would improve care to injured workers. California workers' compensation law already contains strict requirements for physicians who make utilization review decisions. Specifically, the Labor Code requires the following:

1. Labor Code §4610(c) requires each employer who wishes to use utilization review to establish a utilization review process that is consistent with evidence based standards.

2. Labor Code §4610(d) requires every utilization review entity to hire a Medical Director that has an unrestricted license to practice medicine in California. That person is responsible for ensuring that the process of modifying, delaying, and denying treatment requests is consistent with the statutory requirements.
3. Labor Code §4610(e) requires any physician who makes a decision to modify, delay, or deny treatment to be acting within their scope of practice, and to be competent to evaluate the specific clinical issues involved in the medical treatment services.

Labor Code §4610 sets forth very specific requirements for the utilization review process and the physicians who make decisions in that process. Additionally, the Division of Workers' Compensation has promulgated strict regulations that allow for significant penalties when the rules of utilization review are not followed. Current statute and regulations provide more than adequate assurances that physicians who make utilization review decisions are qualified to do so.

AB 933 adds a requirement for physicians who perform utilization review services by requiring that they also be licensed in California. This requirement is entirely unrelated to the effective execution of the duties entrusted to a utilization review physician. All decisions made by utilization review physicians are required to be based on the medical treatment utilization schedule that has been adopted by the Administrative Director for the Division of Workers' Compensation. If treatment varies from that schedule it must be based on evidence-based, peer reviewed, nationally recognized standards. Because the utilization review standards are nationally based, there is no scenario in which a California physician would be more qualified to make a utilization review decision based solely on the fact that the physician is licensed in California.

California physicians do not have specific knowledge that would make this process any more fair or efficient. Conversely, a requirement that physicians be licensed in California would only limit the number of doctors available to perform utilization review services, thereby creating a logjam of cases that need to be reviewed. Additionally, the limitation to physicians licensed in California would likely drive up the cost of utilization review services because the demand for those services would increase relative to the number of providers who are legally able to perform them.

Recent amendments to the bill add new requirements for re-certification of Medical Provider Networks (MPN), and creates a requirement that the employer sign certain statements under penalty of perjury. MPN certification filings are quite complex, and it is unreasonable to require a signature under penalty of perjury because simple mistakes could lead to criminal prosecution. These new amendments will serve only to increase the cost of administering an MPN without offering any additional value to injured workers.

Utilization review is the only method by which employers can hold physicians to evidence based medical treatment standards. UR is the process that enables employers to ensure that employees received the best medical treatment possible while keeping costs under control. For these reasons, we ask for your "no" vote on AB 933.

We are available to discuss our concerns with you or your staff at your convenience. Eraina Ortega (CSAC) may be reached at 327-7500 ext. 521, Natasha Karl (LCC) at 658-8254, Paul Smith (RCRC) at 447-4806, Julianne Broyles (CAJPA) at 441-5050, Jason Schmelzer (CCWC) at 446-4656, Michael Corbett (CSAC-EIA) at 449-3936, Amber Wiley (Alpha Fund) at 498-6233, Iris Herrera (CSCA) at 442-7887, and Whitney Henderson (ACWA) at 441-4545.

cc: The Honorable Paul Fong
Members/Consultant, Senate Labor and Industrial Relations Committee
Cory Botts, Consultant, Senate Republican Caucus