Department of Industrial Relations
STATE OF CALIFORNIA

N E W S L I N E

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DIR, DWC Respond to Concerns Regarding Ongoing Home Health Care

The Department of Industrial Relations and its Division of Workers' Compensation (DIR/DWC) have received inquiries regarding the denial of previously approved home health care services.

Agreed-upon medical treatment must be honored, and California's 2012 reform law, SB 863, did not change this. Under the 2012 reforms, unless a treating physician provides medical evidence of a change in the injured worker's condition that justifies modification of agreed-upon treatment, the treatment cannot be modified.

A similar issue concerning nurse case management services was recently before the Workers' Compensation Appeals Board in the case entitled *Patterson v. The Oaks Farm, et al.* (2014) 79 Cal.Comp.Cases 910. In that significant panel decision, the WCAB held that an employer may not unilaterally cease to provide approved nurse case manager services when there is no evidence of a change in the employee's circumstances or condition showing that the services are no longer reasonably required to cure or relieve the injured worker from the effects of the industrial injury.

In reaching this decision, the WCAB wrote "once defendant authorized nurse case manager services as reasonable medical treatment, it became obligated to continue to provide those services until they are no longer reasonably required under section 4600 to cure or relieve the effects of the industrial injury. Like all medical treatment decisions, that determination must be based upon substantial medical evidence. (Lamb v. Workers' Comp. Appeals Bd. (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; LeVesque v. Workmens' Comp. Appeals Bd. (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].)"

Additionally, the WCAB stated that use of an expedited hearing to address the medical treatment issue in this case is expressly authorized by Labor Code section 5502(b)(1).

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The California Department of Industrial Relations, established in 1927, protects and improves the health, safety, and economic well-being of over 18 million wage earners, and helps their employers comply with state labor laws. DIR is housed within the Labor & Workforce Development Agency. For non-media inquiries, contact DIR's Communications Call Center at 1-844-LABOR-DIR (1-844-522-6734) for help in locating the appropriate division or program in our department.