

## ***Where Has My Medical Treatment Gone?***

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Any person who has suffered the unfortunate event of a workplace injury has experienced the great difficulty - if not the complete inability - to obtain reasonable medical treatment. In the last several years, employers and their insurance companies have lobbied diligently and successfully to erode the medical rights that have, historically, been the core of the workers' compensation system in California.

### **INSURANCE COMPANY CONTROL**

It was not long ago that workers in our State had the right to select his or her own treating doctor when he or she suffered an injury. But slowly employers and insurance carriers (with the help of a willing legislature) have wrested the control over medical treatment away from injured employees and placed it into the hands of insurance companies themselves. The first step in this erosion was the creation of something called the Medical Provider Network. **Under this system, employees were forced to select their doctors from a list provided by the employers' insurance companies!**

The next "takeaway," after this, was the legislature's creation of the Utilization Review process. Without getting too technical, please just know that **Utilization Review means that a company is hired by the employer's insurance carrier to find ways to deny medical treatment which has been recommended by the employee's own doctor.** This system requires that the injured employee's doctor must file a request for authorization, which seeks permission from the insurance company, to provide necessary medical treatment. This request is then submitted to the employer's Utilization Review, which means that a doctor *who does not see the patient* will review the recommendations and then approve or deny treatment.

### **INDEPENDENT MEDICAL REVIEW...**

Lest you think the situation could not become worse, the law changed again in July 2012. Until then, an employee who was denied treatment was able to request an expedited hearing before a judge to review the conflicting medical evidence. The judge would then issue a decision, either ordering the treatment or denying it. In 2012, however, the Labor Code was modified to include an "Independent Medical Review System" to deal with these medical disputes between the worker's doctor and Utilization Review. Under this "new, improved" system, the injured employee can no longer go to Court, nor can he/she present his/her case before a neutral judge. What we now have is an anonymous doctor (and I mean truly anonymous, since we are not allowed to know who the doctor is) who reviews the decision of the Utilization Review doctor and whatever the medical documentation that the worker's doctor has presented to the Independent Medical Review doctor. This independent, anonymous doctor makes a decision, based entirely on medical reports, which is final and binding. The injured worker never has any right to appear before a judge unless the Utilization Review process has almost entirely failed and there is no hope that he/she may request different medical treatment unless he/she can show a "significant change of circumstance" and is willing to start the entire process over again.

This brief history of the deterioration of the medical treatment procedures is intended to alert all workers of the need to be diligent about protecting their rights. It is important to timely notify your employer any time you hurt yourself on the job and to give a proper, correct and timely history to the first physician that you see following any work-related injury. Once reported, the employer is obligated to provide the injured worker with a claim form and information on how to file and obtain their workers' compensation benefits.

**The above-stated opinions are exclusively those of the author, who can be reached at (714) 835-1404.**