

LIEN SCENE

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HEALTHCARE RECOVERY SPECIALISTS

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DODGING LEGISLATIVE BULLETS

Over the last few years, our newsletter has been filled with reports of legislative changes that have been detrimental to the workers' compensation recovery rights of health care providers and payers. We are thrilled to report that Boehm's recent lobbying efforts contributed to a victorious gubernatorial veto of a bill that, if enacted into law, would have jeopardized group health plan and union trust fund lien recoveries in workers' compensation.

Senate Bill 906 would have created a new Labor Code Section 4608.1. The bill was originally intended to make it easier for pharmacies to utilize independent third-party billing services to bill and collect from workers' compensation carriers for services provided. Unfortunately, over the course of development of the bill, it was turned into a proposed statute that would have greatly impacted all liens.

The bill sought to bring all liens under the State's minimum rate, the Official Medical Fee Schedule, whether the case was an accepted claim with

timely authorized care, or a denied claim in which the employer/insurer has completely abandoned the injured employee to his or her fate. This law would have taken away our right to seek the amount paid by any plan when greater than fee schedule on denied cases, or even on accepted cases where the workers' compensation carrier allowed a group health plan or trust fund to pay while it was taking its statutory 90 days to decide whether or not to accept the claim. If the bill had been signed into law, employers/workers' compensation insurers would have, in effect, been rewarded for their negligent or intentional delays in paying their legal obligations.

Boehm alerted interested parties and embarked on a campaign to inform the Governor of the true effect and impact of the pending legislation. At the eleventh hour on Sunday October 14, 2007, Governor Schwarzenegger vetoed the bill.

We appreciate the input of all who participated in this effort. Boehm will continue to monitor these matters and keep you informed of issues that may impact workers' compensation recoveries.

Following is the Governor's veto message:

To the Members of the California State Senate:

I am returning Senate Bill 906 without my signature.

Although the purpose of this bill is to clarify that a provider of medical treatments and services in the workers' compensation system may contract out the performance of specified functions, I am concerned that some provisions of this bill may inadvertently undermine existing law. For instance, this bill appears to force health plans that cover medical services later determined to be workers' compensation injuries to accept a loss on their outstanding health plan liens against workers' compensation insurers. In addition, by providing that the changes it makes are declaratory of existing law, this bill would unfairly impact existing liens in the system.

I believe these concerns can be addressed easily with minor amendments to the bill. I encourage the proponents to work to make these changes and pass a revised bill as soon as possible next year.

Sincerely,

Arnold Schwarzenegger

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