



HB 1399 by Rep. Byrd Worker's Compensation

Let's Help Injured Workers Return to Work

There are currently many safe harbors in the worker's compensation system that provide insurance carriers with the opportunity to avoid the payment of reasonable attorney's fees.

- Claims filed by injured workers arise from recommendations made by their authorized treating physicians. These treating physicians are 100% selected by insurance carriers and are obligated to immediately submit their findings and recommendations to carriers after completing the evaluation and treatment. In addition, nurse case managers hired by insurance carriers attend these appointments to facilitate the provision of these medical recommendations.
- Injured workers only hire attorneys when the benefits being recommended are denied and/or delayed.
- Prior to the filing of a *Petition for Benefits*, the injured worker, through his or her attorney, must first make a "good faith" effort which requests the carrier to provide the benefits.
- In the event the benefits are still denied or delayed, the injured worker, through his or her attorney, then files a formal *Petition for Benefits* which requires a specific request to provide the benefit and must attach the medical evidence from the treating physician. If the request is not specific enough, or if the medical documentation is not attached, the *Petition for Benefits* is dismissed.
- Once a *Petition for Benefits* is filed, the insurance carrier has 30 additional days to provide the requested benefits before they would be obligated to pay a reasonable attorney's fee.
- Because (1) the insurance carrier controls all medical treatment, (2) treating physicians are required to timely submit their recommendations, (3) nurse case managers attend these appointments, (4) good faith efforts must be made before a *Petition for Benefits* can be filed, (5) the *Petition for Benefits* must include the same documentation that was already provided to insurance carriers, and (6) the insurance carrier still has 30 additional days to provide the requested benefits without being obligated to pay attorney fees, there are numerous safeguards already contained in the law which encourage the provision of the benefit and avoid the obligation for insurance carriers to pay attorney's fees.

NOTE: The obligation for insurance carriers to pay reasonable attorney's fees when benefits are wrongfully denied or delayed is the lynchpin to the constitutionality of the workers' compensation system.