

## **The Injured Worker's Right to Chose a Treating Doctor under Nevada Workers' Compensation Law**

Injured workers in Nevada have only a limited right to choose a treating physician for their work injury or occupational illness. In 1993, the Nevada state legislature began to impose limits on the injured worker's right to decide who will touch and treat him. Recently, the Nevada Supreme Court confirmed that industrial insurers can decide which doctors will be authorized to treat injured workers. Each insurer, self-insured employer, or third-party administrator is allowed to make a list of their authorized medical providers, and the injured worker has no right to insist that he be allowed to treat with a doctor who is not on that list.

Insurers' provider lists change frequently. An adjuster must send a copy of the provider list within 3 working days of receiving a written request for it from an injured worker or his attorney. If an injured worker is not satisfied with the physician who begins treatment at the initial clinic, or is dissatisfied with the specialist she is referred to by the clinic, the injured worker should first request a copy of the provider list from her adjuster. Otherwise, the injured worker wastes time by requesting a doctor who is not on the insurer's provider list.

If an injured worker requests a different doctor from the insurer's provider list within the first **90 days** of the claim, the adjuster must authorize it. If the injured worker waits to ask for a different doctor after the claim has been open for 90 days, the adjuster may deny the request. However, the law now requires that the adjuster give a reason for denying a request for a change of doctors. The law also states that if the injured worker requests a change of doctors, and the insurer does not act on the request within 10 days, the request is deemed granted. However, that law is of little practical help to injured workers, as no doctor's office will schedule an appointment without authorization from the adjuster.

If an injured worker waits until the treating doctor says that no further care is necessary before asking for a different doctor, expect the adjuster to deny the request, even if it is made within the first 90 days. An injured worker who feels that the treating doctor is biased in favor of the insurer, or that the doctor is not listening or providing proper care, should immediately request a change of doctors.

An adjuster won't authorize a request for a different doctor if the adjuster is still within the 30-day time period to accept or deny the claim, and the adjuster hasn't decided yet to accept the claim. An injured worker should be very careful in selecting a physician to perform a surgery. If the surgery does not go well, or the injured worker does not like the surgeon after the surgery, it may be difficult to find another doctor willing to take over as the treating doctor. Many surgeons who are asked to give a second opinion want to look at medical records before agreeing to see the patient, and that takes time.

A workers' compensation attorney who is knowledgeable about the reputations of local physicians can be a great help deciding which doctor should treat you for your particular injury. The treating physician on the claim is also responsible for giving any temporary or permanent work restrictions. If a doctor tells an injured worker that the law does not allow him to give restrictions, that doctor is not being honest. The law does not prohibit a treating doctor from taking a patient off work completely or from giving work restrictions. A treating physician is ethically required to act in the patient's best interests, regardless of pressure by an insurer. When the treating doctor releases the injured worker from further care, the doctor is also supposed to state whether it is likely that the patient has a ratable impairment. If so, the adjuster must then schedule an impairment exam that is the basis for a permanent partial disability award, the monetary settlement for a permanent injury. Not all surgeons and treating physicians in Nevada are aware of what constitutes a ratable impairment. Unfortunately, some injured workers are deprived of their PPD awards because their treating physicians are not knowledgeable about Nevada workers' compensation law.