

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 466  
Finance

(Senator Astle)

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Workers' Compensation - Medical Services and Treatment - Health Care  
Provider Panel

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This bill authorizes an employer or insurer to require a covered employee to choose a health care provider from a panel of at least three health care providers established by the employer or insurer. The bill provides that employers and insurers are not responsible for medical expenses incurred by a covered employee that is not provided by a health care provider on the panel. Emergency care is exempted from the requirement to receive care from a provider on the list.

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Fiscal Summary

**State Effect:** Potential significant decrease in State workers' compensation claims payments in FY 2005 due to medical cost reductions and possible indemnity cost reductions. Special fund expenditures could increase to the extent that there are additional contested cases before the Workers' Compensation Commission (WCC).

**Local Effect:** Potential significant reduction in workers' compensation claims payments or premiums.

**Small Business Effect:** Potential significant reduction in workers' compensation insurance premiums.

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Analysis

**Bill Summary:** Health care providers are (1) persons who are licensed, certified, or otherwise authorized under the Health Occupations Article or Section 13-516 of the Education Article to provide health care in the ordinary course of business; and (2) the

facilities where health care is provided to patients or recipients. Emergency is defined as a situation when, in the professional opinion of a health care provider, a clear and sufficient risk of death or imminent serious injury or harm to a patient or recipient exists.

**Current Law:** Employers and insurers are required to provide to a covered employee who has suffered an accidental personal injury, compensable hernia, or occupational disease: (1) medical, surgical, or other attendance or treatment; (2) hospital and nursing services; (3) medicine; (4) crutches and other apparatus; and (5) artificial arms, feet, hands, and legs and other prosthetic appliances.

**Background:** The National Council on Compensation Insurance (NCCI) advises that three studies by the Workers' Compensation Research Institute (WCRI) (1990, 1994, and 2002) and one by NCCI (1991) indicate that medical costs are 5% - 29% lower in states where the employer directs the selection of health care providers. NCCI notes the current level of attorney involvement in Maryland is relatively high. The 1994 WCRI study partially attributed Virginia's low attorney involvement rate to the fact that because employers and insurers direct the choice of health care services, they are more likely to agree with the disability rating assigned by the health care provider.

The Injured Workers' Insurance Fund (IWIF) has a network of doctors and encourages State employees who are injured to use this network. Workers' compensation law, however, specifies that a covered employee is free to see a doctor of his or her choice. IWIF advises that it recoups savings when employees use doctors from its network rather than out-of-network doctors, but the amount of this savings is indeterminate. IWIF advises that these savings would increase if employees were required to use doctors from its network.

**State Fiscal Effect:** The State is self-insured for workers' compensation. IWIF is the State's third party administrator. The State may be able to reduce the cost of claims by requiring employees to choose from a panel of doctors by negotiating favorable rates from panel doctors and bypassing doctors that have a reputation for higher claims.

NCCI notes that approximately 43% of workers' compensation losses in Maryland are due to medical costs. NCCI estimates that overall system costs could decrease between 2.2% - 4.3% due to the impact on medical costs and up to an additional 5.7% due to indirect impacts on indemnity costs. To the extent that the NCCI estimates are accurate, and that State claims mirror the overall Maryland workers' compensation system, State workers' compensation costs could decrease by 7.9% - 10.0%.

WCC indicates the provisions of this bill could result in an increase in contested cases. The Department of Legislative Services (DLS) notes that a reliable estimate of potential

workload increases is not possible. To the extent this bill results in significant additional contested cases, WCC could require additional resources.

**Small Business Effect:** Employers' workers' compensation costs are based on the claims experience of covered employees. An employer, including a small business, absorbs premium increases or decreases. The bill may result in lower medical claims by restricting the choice of doctors, which could result in lower premiums for insured employers. DLS cannot reliably estimate the amount of any reductions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1337 (Delegates Wood and Jameson) – Rules and Executive Nominations.

**Information Source(s):** Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, National Council on Compensation Insurance, Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2004  
mh/mdr

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Analysis by: Daniel P. Tompkins

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510