

9/25/12

Mr. Chairman and member of the Committee,

Unfortunately, I will be out of town for work during the next hearing, so I'd like have voice through this letter since I can't be there in person.

I have read the proposed bills 13.0199.01000 (preferred provider law) and 13.0203.01000 (Medical consultant's transparency law). Some of these revisions are good, but I would like to point out a few more things for consideration.

Requiring employers to give written notice to they're employees concerning them being under the designated medical provider program is good. And it is definitely a more appropriate requirement than the current law.

However, as you may recall a similar law already exists; saying that if an employer has not informed his employee about being under a Designated Medical Provider, the employee has the right to choose his own provider. This is exactly what happened in my case. Did WSI allow me to then pick my own provider? Absolutely not. So did my employer follow the law? No. Did WSI follow the law? No.

Why is that? It is quite simple; there is no financial incentive to follow the law. And there is complete financial incentive not to.

Basically WSI and my employer ripped me off. But what if it is the other way around? What if a worker tries to rip off WSI and his employer? i.e. makes a work comp claim for a personal injury. If my memory serves me correct ND century code says any fraudulent claim expensing over \$500 is considered a felony. If a worker rips off WSI, and he's caught; the state attorney gets involved; the worker is prosecuted and sent to prison. And I say, rightfully so. It's not right to cheat insurance companies.

But if it is the other way around (WSI and employers ripping off legitimately injured workers) what adversity comes they're way? According the ND law: Nothing. Which means it is a completely civil matter, which most, if not all, people will lose because WSI will try to pin it on the employer and the employer will try pin it on WSI. A civil attorney will be reluctant to take the case because there are 2 parties in the wrong, which makes the case complicated. Hence as a worker, you'd have to shell out \$5000 in legal retainer fee to even have a chance at getting fair compensation. And even then there are no guarantees.

I would recommend the following: If this committee expects these laws to be followed, they must list consequences for breaking these laws. How about a \$1000 dollar fine for the employer? And a \$2000 fine for WSI? Anything would be better than nothing. Otherwise, considering WSI past behavior, I don't see why WSI won't break this law; just like it keeps breaking the other laws you write. Also,

perhaps additional clauses should be listed as to who can enforce these laws. Perhaps specific authority to the State Insurance Commissioner would be appropriate. Or if not to him, some else outside of WSI.

I would also ask that this committee consider the same thing concerning the transparency of WSI's medical consultants. There is no consequence listed for breaking the law, how about a \$500 fine, or a 6 month consulting suspension. As with any law or rule, if there is no incentive to follow it, it will not be followed.

Thank you for your consideration.

Luke Kenner

Injured Worker and concerned citizen