



Department of Consumer and Business Services

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Medical Arbitrator Panels

HB 2335

Background: When a workers' compensation claim is closed by the insurer and the extent of the worker's permanent disability is determined, the worker or insurer may request review of the claim closure by the Department of Consumer and Business Services (DCBS). If the objection is with the findings of the worker's impairment, the law requires the Director to refer the claim to a medical arbitrator for review. Instead of an individual arbitrator, the law also allows either the worker or insurer to request a panel of three medical arbitrators to conduct the exam. In both situations, the insurer pays for the medical arbitrator examination. In 2015, there were 433 requests for panel exams out of a total of 1,349 arbitrator examinations. Insurers request the majority of panel exams.

DCBS manages and coordinates arbitrator examination scheduling and arrangements. Recruitment and retention of providers willing to be medical arbitrators is an ongoing challenge, particularly in certain medical specialties and rural areas of the state. Scheduling three physicians for a panel examination creates additional scheduling challenges for both providers and workers. Workers must often travel (at the expense of the insurer) in order to attend a panel examination, as panel examinations are commonly scheduled in metropolitan areas due to arbitrator availability.

The department does not have statutory discretion to appoint fewer than three panel members for exams, and there is little legislative history to explain the reason for three doctors composing a panel. DCBS does not see instances where a "tie breaker" is invoked. Typically panel exam reports reflect a consensus opinion and do not indicate dissent or disagreement among the providers.

This bill: HB 2335 allows the DCBS Director to select two or three medical providers for an arbitrator panel, based on criteria that will be set by rule. In the case that a smaller panel is warranted, it would improve efficiency of scheduling examinations, especially in rural areas and where certain specialties are needed. Worker travel to examinations would likely be reduced, making the process more convenient and less expensive overall. The reduction in panel membership could reduce insurer costs for panel exams \$278,000 per year or less, depending on the frequency a three- versus two-member panel is selected.

Other information: The Management-Labor Advisory Committee voted to support this bill.