

WORKFORCE SAFETY & INSURANCE LAW

65-05-28.1

Employer to select preferred provider. Notwithstanding section 65-05-28, an employer subject to this title who maintains an approved risk management program pursuant to section 65-04-19.1 may select a preferred provider to render medical treatment to employees who sustain compensable injuries. "Preferred provider" means a designated provider or group of providers of medical services, including consultations or referral by the provider or providers.

65-05-28.2

Preferred provider – Use required – Exceptions – Notice.

1. During the first sixty days after a compensable injury, an employee of an employer who has selected a preferred provider under this section may seek medical treatment only from the preferred provider for the injury. Treatment by a provider other than the preferred provider is not compensable and the bureau may not pay for treatment by a provider who is not a preferred provider, unless a referral was made by the preferred provider. A provider who is not a preferred provider may not certify disability or render an opinion about any matter pertaining to the injury, including causation, compensability, impairment, or disability. This section does not apply to emergency care nor to any care the employee reasonably did not know was related to a compensable injury.
2. An employee of an employer who has selected a preferred provider may elect to be treated by a different provider provided the employee makes the election and notifies the employer in writing prior to the occurrence of an injury.
3. After sixty days have passed following the injury, the employee may make a written request to the bureau to change providers. The employee shall make the request and serve it on the employer and the bureau at least thirty days prior to treatment by the provider. The employee shall state the reasons for the request and the employee's choice of provider.
4. If the employer objects to the provider selected by the employee under subsection 2 or 3, the employer may file an objection to the change of provider. The employer shall detail in the objection the grounds for the objection and shall serve the objection on the employee and the bureau within five days of service of the request. The employee may serve, within five days of service of the employer's objection, a written response on the employer and bureau in support of the request for change of provider. Within fifteen days after receipt of the response or of the expiration of the time for filing the response, the bureau shall rule on the request. Failure of the bureau to rule constitutes approval of the request. Treatment by the employee's chosen provider is not compensable until the bureau approves the request. The preferred provider remains the treating provider until the bureau approves the employee's request to change providers.
5. An employer shall give written notice to its employees when the employer makes an initial selection of a preferred provider or changes the selection of the preferred provider. An employer shall give written notice identifying the selected preferred provider to every employee hired after the selection was made. An employer who has selected a preferred provider shall display notice of the preferred provider in a conspicuous manner at fixed work-sites, and wherever feasible at mobile work-sites, and in a sufficient number of places to reasonably inform employees of the preferred provider and of the requirements of this section. Failure to give written notice or to properly post notice as required under this subsection invalidates the selection, allowing the employee to make the initial selection of a medical provider.