

Employer List of Designated Providers and Notification of Employees' Rights and Duties

The Pennsylvania Workers' Compensation Act provides that Employers who establish a list of designated Health Care Providers and obtain signed notification forms may control medical treatment for the first ninety (90) days from the date of the first "visit" for the treatment of the work injury or illness. The exception remains emergency care. Again, the Employer need not pay for medical care during the ninety (90) day treatment period of the Employee obtains care from other Health Care Providers. (Section 306(f.1)(1)(i).

Posting

The Employer who chooses to establish a list of providers shall **post** a list in a prominent and readily accessible places at the work site including places used for treatment and first aid including Employee information bulletin boards. 34 Pa. Code Section 1237.754.

Requirements for Employer's List of Health Care Providers

- There must be at least 6 health care providers on the list, but there may be more than 6 listed.
- At least 3 of the health care providers on the list must be physicians.
- No more than 4 of the health care providers on the list may be coordinated care organizations (CCOs).
- The names, addresses, phone numbers and areas of medical specialties of all health care providers must be included on the list.
- The health care providers on the list must be geographically assessable and must have specialties that are appropriate based on the anticipated work-related medical problems of the employees.
- Your employer must specify on the list if any of the health care providers on the list are employed, owned or controlled by your employer or its workers' compensation insurance company.

NOTE: Your employer's list of health care providers must meet all of the above requirements. If the list does not meet all of these requirements, you do not have to choose a provider from the list. Instead, you have the right to seek medical treatment with any health care provider of your choice.

Notification to Employee of Rights and Duties

The Act requires an employee to obtain treatment from providers on the designated list **if** the Employer has provided a clearly written notification of the Employee's rights and duties under Section 306 of the Act. The Employer shall further "ensure" that the Employee has been informed and that he understands these rights and duties. This assurance shall be evidenced only by the Employee's written acknowledgment of having been informed and having understood his rights and duties. Failure of the Employer to evidence such notification shall relieve the Employee from any obligation to treat with panel provider. Further, the Employer will be liable for non-panel medical treatment rendered. 34 Pa. Code Section 127.755(d).

The required notice of employee rights and duties under 34 Pa. Code Section 127.755 requires that the written notice to the employee shall be provided at the time the Employee is hired and immediately after the injury, or as soon thereafter as possible under the circumstance of injury. If the Employee's injuries are so severe that emergency care is require, notice of the Employee's rights and duties shall be given as soon as the occurrence of the injury is practicable.

In the case of Department of Corrections – Somerset v. WCAB (Kirchner) 805 A.2d 633 (Pa. Cmwlth 2002) an employee submitted for payment certain non-panel provider medical expense. The facts of the case reflect that the employee had not been presented the rights and obligation letter at time of injury. The Court held consistent with 127.755(d) that the failure to present employee right and obligation notification at time of injury relieves the employee of his duty to treat with a panel physician. Therefore, the medical expenses submitted by that employee within the ninety (90) day period were therefore payable. **The Court specifically identified that employer's obligation of notification with respect to employee's rights and duties must occur at two (2) times being at time of hire and at time of injury either immediately or as soon as practicable after the employee is injured.**