

# DEPARTMENT OF LABOR AND EMPLOYMENT

## Division of Workers' Compensation

7 CCR 1101-3

### WORKERS' COMPENSATION RULES OF PROCEDURE

#### **RULE 8 AUTHORIZED TREATING PHYSICIAN**

##### 8-1 APPLICABILITY

- (A) Employers who meet the criteria in §8-43-404(5)(a)(I)(B) or (II)(A), are exempt from the requirement to provide a list of at least two physicians or two corporate medical providers, or at least one physician and one corporate medical provider, when notified of an on the job injury. This Rule 8 does not apply to those exempt employers, except for the provisions of 8-2(B) and (C). If emergency care is provided an exempt employer may designate an authorized treating physician as allowed by statute when emergency care is no longer required. If an exempt employer refers an injured worker to a physician who can attend the injured worker when the injury occurred while the worker was away from the worker's usual place of employment, such employer may designate an authorized treating physician as allowed by statute within seven (7) business days following the date the employer has notice of the injury. If an exempt employer does not properly designate an authorized treating physician as allowed by statute the injured worker may select a provider of the worker's choosing.

##### 8-2 INITIAL REFERRAL

- (A) When an employer has notice of an on the job injury, the employer or insurer shall provide the injured worker with a written list in compliance with §8-43-404(5)(a)(I)(A), that for purposes of this rule 8 will be referred to as the designated provider list, from which the injured worker may select a physician or corporate medical provider.
- 1) The designated provider list can initially be provided to the injured worker verbally or through an effective pre-injury designation. If provided verbally or through a pre-injury designation, a written designated provider list shall be mailed, hand-delivered or furnished in some other verifiable manner to the injured worker within seven (7) business days following the date the employer has notice of the injury.
  - 2) The designated provider list shall state the insurer responsible for the claim, or that the employer is self-insured. In addition, the designated provider list shall include the name and contact information of the person, or a maximum of two people, that the employer and/or insurer designate as their representative(s). For purposes of this Rule 8, the person or people so designated shall be referred to as the respondents' representative(s).
- (B) In an emergency situation the injured worker shall be taken to any physician or medical facility that is able to provide the necessary care. When emergency care is no longer required the provisions of paragraph (A) of this rule apply.
- (C) If the injured worker is away from the worker's usual place of employment at the time of the injury, the injured worker may be referred to a physician in the vicinity where the injury occurred who can attend to the injury. Within seven (7) business days following the date the employer has notice of the injury the employer shall comply with the provisions of paragraph (A) of this rule.

- (D) If the employer fails to comply with this Rule 8-2, the injured worker may select an authorized treating physician of the worker's choosing.

### 8-3 INFORMATION PROVIDED BY DESIGNATED PROVIDERS

- (A) An interested party to a particular claim, as referenced in §8-43-404(5)(a)(I)(A) and for purposes of this Rule 8-3, includes the injured worker, the attorneys of record, the employer, the insurer, and any third party administrator authorized to handle the specific claim.
- (B) In order to provide information to assist in choosing a physician or deciding to change physicians, an interested party is entitled to receive a list of ownership interests and employment relationships involving the provision of medical care, if any, by making a written request for such information from a designated provider. A copy of the written request must be provided by the interested party to the respondents' representative(s). A physician who provides medical services on behalf of a corporate medical provider, but does not act as a primary care physician, is not subject to this provision. A designated provider shall utilize a form established by the Division to provide this information.
  - 1) The designated provider's list of ownership interests and employment relationships shall be current to within thirty (30) days of the date of the request.
  - 2) If the form was not previously provided and an interested party requests such information from a designated provider, the form shall be provided within five (5) business days of the request.
  - 3) If the information referenced in this paragraph (B) is provided, no follow-up questions or request for additional information shall be permitted, except for information allowed pursuant to a hearing or discovery process.
- (C) If the list of ownership interests and employment relationships was not previously provided, and an interested party requests the information in compliance with the provisions of Rule 8-3(B) and the information is not provided in a timely manner, the interested party may notify the respondents' representative(s) in writing. To be effective, such notification must be made within seven (7) business days following the date the information should have been provided.
  - 1) Within seven (7) business days following timely notification pursuant to this paragraph (C), the injured worker shall be provided with a substitute authorized treating physician. If a substitute authorized treating physician is not timely furnished the injured worker may select an authorized treating physician of the worker's choosing.

### 8-4 ON-SITE HEALTH CARE FACILITY

- (A) If an employer has a qualified on-site health care facility, the employer may designate that facility as the authorized treating physician.
- (B) To be a qualified on-site health care facility under this Rule 8-4, the on-site facility must be under the supervision and control of a physician, and a physician must be on the premises or reasonably available.

- (C) If the employer designates an on-site health care facility, the employer must, within seven (7) business days following notice of an on the job injury, provide the injured worker with a designated provider list consistent with the provisions of Rule 8-2(A)(2). While the on-site health care facility shall be the initial authorized treating physician, the injured worker may thereafter change to a physician or corporate medical provider on the designated provider list if the injured worker complies with all statutory and rule requirements for the one time change of physicians.

#### 8-5 ONE-TIME CHANGE OF AUTHORIZED TREATING PHYSICIAN

- (A) Within ninety (90) days following the date of injury, but before reaching maximum medical improvement, an injured worker may request a one-time change of authorized treating physician. The new physician must be a physician on the designated provider list or provide medical services for a designated corporate medical provider on the list. The medical provider(s) to whom the injured worker may change is determined by the designated provider list given to the injured worker pursuant to Rule 8-2 or 8-4(C).
- (B) To make a change pursuant to this Rule 8-5 the injured worker must complete and sign the form established by the division for this purpose. The injured worker shall submit the form to the employer by mailing or hand-delivering the completed form to the person(s) designated by the employer to receive the form. The person(s) so designated is listed on the designated provider list given to the injured worker pursuant to Rule 8-2 or 8-4(C) as the respondents' representative(s). The injured worker may, but is not required to, provide the form to the impacted physicians. In any event, the respondents' representative(s) shall notify the impacted physicians and the individual adjusting the claim of the change, unless an objection is submitted pursuant to paragraph (C) of this Rule 8-5.
- (C) An injured worker may obtain a one time change of physician by providing notice that meets the requirements set out in statute. If the insurer or employer believes the notice does not meet statutory requirements and does not want to recognize the change of physicians, it must provide written objection to the injured worker within seven (7) business days following receipt of the form referenced in paragraph (B). The written objection shall set out the reason(s) for the belief that the notice does not meet statutory requirements.
  - 1) If the employer or insurer does not provide timely objection as set out in this paragraph (C), the injured worker's request to change physicians must be processed and the new physician considered an authorized treating physician as of the time of the injured worker's initial visit with the new physician.
  - 2) If written objection is provided and the dispute continues, any party may file a motion or, if there is a factual dispute requiring a hearing, any party may request that the hearing be set on an expedited basis.

#### 8-6 TRANSFER OF MEDICAL CARE

- (A) When there is a change of authorized treating physicians, the physician who had been the authorized treating physician remains authorized and is expected to provide necessary care until the injured worker's initial visit with the new authorized physician.
- (B) The insurer or employer may facilitate the transfer of medical records to the new authorized physician. Otherwise, the new authorized physician should request medical records from the previous physician as soon as practicable. Upon receipt of a request for medical records, the physician receiving the request shall provide the medical records to

the new physician within seven (7) calendar days following the physician's receipt of the request. If any copying is necessary the insurer shall pay for the copies consistent with the medical fee schedule.

- (C) The insurer, employer or injured worker may schedule an appointment for the injured worker with the new authorized physician. If the new authorized physician is unwilling or unable to schedule an appointment to treat the injured worker, the injured worker shall notify the respondents' representative(s) in writing. Upon receiving such a notification, the respondents' representative(s) shall attempt to facilitate the scheduling of an appointment, which shall be scheduled to take place within thirty (30) days following the date of receipt of the notification. If a timely appointment cannot be scheduled and the injured worker does not agree to a later appointment, the injured worker shall be provided with a substitute authorized treating physician. If, within seven (7) business days following the date the respondents' representative(s) received written notice that the appointment could not be scheduled, an appointment is not scheduled or a substitute physician provided, the injured worker may select an authorized treating physician of the worker's choosing.

#### 8-7 CHANGE OF MEDICAL PROVIDER

In addition and separately from all the other provisions of this Rule 8, an injured worker may submit a written request to change physicians pursuant to 8-43-404(5)(a)(VI). The provisions of this Rule 8 relating to a one-time change of physician do not apply to a request for change of physician made under §8-43-404(5)(a)(VI).