

DEPARTMENT OF INDUSTRIAL RELATIONS

Workers' Compensation Appeals Board

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June 16, 2004

**DWC/WCAB JOINT IMPLEMENTATION MEMORANDUM
LABOR CODE SECTION 5402(c)**

When there is a bonafide dispute as to provision of medical treatment pursuant to Labor Code section 5402(c) (effective April 19, 2004) the applicant shall be entitled to an expedited priority hearing and decision pursuant to Labor Code section 5502(b) and Administrative Director Rule 10136. Labor Code section 5402(c) provides that:

"Within one working day after an employee files a claim form under Section 5401, the employer shall authorize the provision of all treatment, consistent with Section 5307.27 [the AD's forthcoming medical treatment utilization schedule] or the American College of Occupational and Environmental Medicine's [ACOEM] Occupational Medicine Practice Guidelines, for the alleged injury and shall continue to provide the treatment until the date that liability for the claim is accepted or rejected. Until the date the claim is accepted or rejected, liability for medical treatment shall be limited to ten thousand dollars (\$10,000)."

Liability for medical treatment is among the enumerated "issues in dispute" that entitles a party to request an expedited hearing under Labor Code section 5502(b). In addition, Administrative Director rule 10136(b)(1), which implements section 5502, specifies that:

"An applicant is entitled to an expedited priority hearing and decision upon the filing of an Application for Adjudication of Claim and Request for Expedited Hearing...showing a bona fide dispute as to:

(1) entitlement to medical treatment; (...)"

No determination of whether or not an industrial injury has occurred will be made at an expedited hearing conducted under section 5402(c). The issues to be resolved will be limited to the following:

1. Whether the employee filed a claim form (DWC Form 1) and the date of receipt by the employer;
2. Whether the employer has accepted or rejected liability, and the date of acceptance or rejection;
3. Whether or not medical treatment must be provided generally under Labor Code section 5402(c), the liability for that medical treatment, and the interval of such liability.

At an expedited hearing set under section 5402(c) the parties may request that the case be continued for a priority conference (if the employee is represented) or a status conference (if the employee is not represented) in order to address the issue of injury arising out of and in the course of employment.