

**THE INDUSTRIAL COMMISSION OF ARIZONA
CLAIMS DIVISION**



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March 6, 2015

Directed Care in Arizona Workers' Compensation Claims

Dear Stakeholder:

The Industrial Commission continues to receive complaints that certain entities are directing care in violation of the Arizona Workers' Compensation Act ("Act"). This practice is alleged to take a variety of different forms, but includes situations where an injured worker or provider is told that the injured worker's medical care must be rendered from a "preferred provider" or an "in network provider." The majority of complaints received by the Commission have involved access to physical therapy providers.

The Act is clear that the only entity authorized to direct care is a private self-insured employer. See A.R.S. § 23-1070(A); *Southwest Gas Corp. v. Industrial Commission of Arizona*, 200 Ariz. 292, 25 P.3d 1164 (2001). Employees of all other employers, including employees of public self-insured entities, have the right to choose their own medical providers.

The Commission understands that some workers' compensation insurance carriers and public self-insured employers use "networks" of preferred providers in the processing of workers' compensation claims. The use of networks or preferred providers, in and of themselves, is not an issue. If, however, their use results in actions or conduct that impair or limit the right of an injured worker to choose their provider, and/or results in a delay of medical care to the injured worker, then such use may rise to the level of bad faith or unfair claims processing practices under A.R.S. § 23-930. It should be understood that for purposes of A.R.S. § 23-930, the Commission will hold an insurance carrier, public self-insured employer, or third-party processing agent responsible for actions or conduct that may be taken on their behalf by another entity.

We intend this letter to be a reminder of Arizona law and anticipate that it will serve to prevent inappropriate use of directed care in the future. If an injured worker or provider believes that an entity is directing care in violation of the Arizona Workers' Compensation Act, then they are encouraged to notify the Medical Resource Office of the Claims Division in writing or by calling (602)542-6731.

Sincerely,

Kathleen L. McLeod
Claims Manager