



New Case Brief  
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**JOSE FACUNDO-GUERRERO v. WCAB, NURSERYMEN'S EXCHANGE et al.**  
**CERTIFIED FOR PUBLICATION**  
**COURT OF APPEAL OF THE STATE OF CALIFORNIA**  
**FIRST APPELLATE DISTRICT**  
**Case No. A119814**

Labor Code section 4604.5(d) limits chiropractic treatment to 24 visits per industrial injury occurring after 1/1/04. The employer may authorize more than 24 visits. Applicant filed a writ of review arguing that LC 4604.5(d) violated the California Constitution, denied him due process, and violated his right to equal protection.

The Court found that Section 4 of the California Constitution which requires a "full provision of for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve for the effects of such injury" does not prevent the legislature from limiting the amount of chiropractic treatments for which the workers' compensation system is responsible. The Court found that the statutory exception allowing an employer to authorize more visits is not an unconstitutional delegation of power. Moreover, because the employer's decision to authorize additional treatment is not tethered to any factual or legal dispute requiring adjudication, due process is not implicated.

With regard to the equal protection challenge, the court reasoned that because applicant was not a member of a suspect class, the law would be upheld if a rational basis existed for the classification. The court reasoned that there was no doubt a rational basis for the enactment of LC 4604.5(d) which was to alleviate the crisis of skyrocketing workers' compensation costs.