



New Case Brief
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Simmons v. State of California Dept. of Mental Health
(2005) 70 CCC 866 [WCAB En Banc]

In an en banc decision, the WCAB ruled that Utilization Review (“UR”) reports are admissible under certain circumstances (to prove the process was timely, that the proposed treatment is medically necessary, and that the process has resulted in a dispute) but are not admissible for the purpose of determining whether the industrial injury caused or contributed to the need for treatment. Disputes as to need for treatment based upon causation must follow the procedure set forth in Labor Code 4610(g)(1).

The Board initially held that if a utilization review physician finds that medical treatment is reasonably necessary, but raises questions as to whether the treatment is industrially related, the utilization review report is admissible into evidence for the limited purposes of establishing: (a) utilization review was undertaken and the date(s) of the utilization review physician's report(s); (b) the utilization review physician found the proposed treatment to be medically necessary; and (c) the utilization review process has resulted in a dispute as to whether the industrial injury caused or contributed to the need for the treatment.

The Board further held that when a utilization review physician finds that treatment is medically necessary but questions whether the need for that treatment is causally related to the industrial injury, the defendant must either: (a) authorize the treatment; or (b) timely deny authorization based on causation within the deadlines set forth in section 4610(g)(1); timely communicate the denial based on causation to both the treating physician and the applicant within the deadlines set forth in section 4610(g)(3)(A); and timely initiate the AME/QME process within 20 days of the receipt of the utilization of physician's report, if the employee is represented by an attorney, or 30 days, if the employee is unrepresented, in accordance with section 4062(a).

Moreover, although the ACOEM guidelines are presumptively correct on the issue of extent and scope of medical treatment, they are not presumptively correct on the issue of whether a need for medical treatment is causally related to the industrial injury.