



## Properly Designating the Authorized Physician in a Workers' Compensation Claim

**Drew Rzepiennik, Attorney | Partner**

Ruegsegger Simons Smith & Stern, LLC | 303-575-8096

One of the most important rights you have in a workers' compensation claim is the right to select the medical provider who will treat your injured worker. At first glance this may not seem all that important, however, getting your worker to a physician who is well versed in the workers' compensation system is essential. Identifying physicians who understand claim concepts such as causation assessment, maximum medical improvement (MMI), proper assignment of restrictions, return to work, and use of the Colorado Medical Treatment Guidelines, can mean the difference between an efficient claim and one that seems to never reach an end. Colorado has made it a bit tricky to properly designate physicians and many employers accidentally waive this right by making some very simple mistakes. We can help make sure that you are designating the authorized medical provider correctly and identifying the proper choice of physicians at the outset of a claim. The following is a brief summary of issues and requirements when identifying the designated physician:

- After receiving a report of an on-the-job injury, the employer must provide the injured worker a list of medical providers the injured worker can treat with. That list can consist of four corporate medical providers, or two physicians and two corporate medical providers, or a combination of thereof. Identifying who should be on the list is very difficult and you should work with your attorney and/or carrier in this step. Most carriers have identified these medical providers for you already.
- You can provide the designated provider list verbally, or in a pre-injury designation (i.e. employee manual), initially. However, within 7 business days following the date you were first notified of the injury, you must provide a written designated provider list by mail, hand-delivered, or in some other verifiable manner to the injured worker. If you miss this step, or fail to provide the written list timely, you lose the right to designate the treating physician and the injured worker gets to choose his own doctor.
- The 7 business day clock begins to tick from the moment a "reasonable manager" would believe that the worker may have suffered an injury or an aggravation of a condition while on the job. Many workers shrug off injury or pain and may not be sure if the injury or aggravation is related to the job. Your managers should fully investigate any injury or pain reported by a worker. If that worker indicates that his condition is not work-related, document this in writing, and have the worker verify this statement. In drafting the designated provider list, language can be added that asks the worker to confirm whether he believes the condition is work-related or not. Note that the designated provider list does not admit that the injury or condition is compensable, but rather, informs the worker that if it is found compensable, he must treat with one of the four choices on the list.
- The designated provider list must also provide other information including the name of the insurer responsible for the claim, the name and contact information of the person or persons designated to handle the claim, and the address and contact information for the identified medical facility or physicians identified. Again, work with your attorney and/or your carrier to make sure your designated provider list is in full compliance.

- The injured worker may choose to receive care from one of the four medical providers on the list you provide. If the injured worker elects to receive care from his own doctor, those medical bills are the responsibility of the injured worker.
- The injured worker may switch once to any of the other medical providers on your list, as long as a request is made in writing (on a form provided by the Division of Workers' Compensation) within 90 days of the date of injury. If you receive any request from your injured worker to switch physicians, in writing or verbally, contact your carrier or attorney immediately so that a proper response can be initiated.
- In an emergency situation the injured worker must be taken to any physician or medical facility that can provide care, regardless of whether they are on the designated provider list or not. When emergency care is no longer necessary, the injured worker must seek authorized care from a provider on the designated provider list. Again, the written designated provider list must be given to the injured worker within 7 business days of receiving notice of the work injury.
- If you do not provide a designated provider list timely, and in compliance with all of the requirements, the injured worker gets to choose his own doctor (or the doctor his attorney selects for him). This may result in a less desirable outcome for various reasons. There may also be penalties associated with a failure to provide the designated provider list as required.

This process is complicated. If you do not have a designated provider list already in your workers' compensation materials, or you are unsure of the process, contact us at any time to assist in drafting the notice and establishing steps for compliance. Please feel free to contact me at 303-575-8096 with any questions.

**\*\* Note: The information contained in this document does not convey legal advice of any kind. Please consult your attorney for advice on the application of the law to the specific facts of your case or legal problem.**

**RUEGSEGGER SIMONS SMITH & STERN, LLC** has grown to be one of Colorado's largest firms dedicated to defending employers in a broad range of employment matters and insurance defense. Our firm has extensive experience in various insurance defense, claims defense, subrogation and fraud matters. Our attorneys have represented hundreds of employers and insurance carriers in hearings and appeals before the Colorado Office of Administrative Courts, the Industrial Claim Appeals Office, the Colorado Court of Appeals, and the Colorado Supreme Court. Our workers' compensation practice takes us to venues all along the Front Range and throughout the state, including Colorado Springs, Pueblo, Durango, Glenwood Springs, and Grand Junction. This substantial presence in the workers' compensation area gives Ruegsegger Simons Smith & Stern the unique ability to represent and defend employer and carrier interests on any issue arising under the Colorado Workers' Compensation Act. Drew Rzepiennik is a partner at the firm and can assist with any workers' compensation issues you may have

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American Subcontractors Association Colorado  
3575 South Sherman Street, Suite 3 | Englewood, CO 80113  
303.759.8260 | [DScifo@ASAColorado.com](mailto:DScifo@ASAColorado.com)