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## **California Utilization Review Regulations Concern Occupational Therapists**

Occupational therapists urge the state of California to amend the emergency workers' compensation regulations that went into effect on December 13, 2004, before permanently adopting them, because they limit workers' access to a range of vital health care services.

In testimony, Linda Botten, OTR/L, CHT, a representative of the Occupational Therapy Association of California (OTAC) and the American Occupational Therapy Association (AOTA), denounced the guidelines' narrow scope and lack of clarity.

"Anyone requiring services that are not included in the American College of Occupational and Environmental Medicine's (ACOEM's) *Practice Guidelines*, such as occupational therapy, are facing extended delays and unjustified claim denials," Botten said. "Everyone knows the ACOEM *Practice Guidelines* are not comprehensive, yet workers whose injuries require additional treatment are forced to take extraordinary measures in order to have their claims approved."

In fact, many workers are caught in the double standard that such vagaries create. There are countless reports of claims for occupational therapy treatments approved through the prior authorization process, only to be rejected once the claims are submitted for payment. Frequently denials from insurers state that "the services provided do not appear to be in compliance with Labor Code Sections 4604.4 and 5307.27 regarding appropriate practices of medical care." These sections of the Labor Code state that treatment must be provided in accordance with ACOEM or other guidelines.

In comments prepared for the hearing, AOTA/OTAC suggest that "the regulations must be clarified to state that other protocols or standards, such as those for the provision of occupational therapy, may be included in the utilization review plans" and that "the regulations should include a formal instruction to insurance carriers not to use topical gaps in the ACOEM guidelines with regard to occupational therapy as grounds for denial of occupational-therapy services."

The inconsistencies have resulted in a huge reduction in therapy services for injured workers. A study completed late last year by the OTAC and AOTA estimated that workers who were injured on the job and submitted claims under California's current workers compensation law (SB 228) were deprived of \$56 million in occupational therapy services in the first 6 months of 2004, caused by a striking increase in the number of denied or delayed treatments.

The study surveyed 150 occupational therapy practices in California, and compared key data from January 1–June 30 for the years 2003 and 2004. Key findings pointed to fewer treatments, more denied claims, and longer waiting times for treatment, more than twice as long in 2004, due to new medical review requirements designed to streamline the process:

- \* The number of occupational therapy treatments completed from January 2004–June 2004 dropped 35% from 2003.
- \* The number of denied claims for occupational therapy increased dramatically to 14,979 in 2004, compared to 1,030 in 2003.
- \* The average waiting time for a claim to be approved jumped to 15.43 days in 2004, compared with 6.02 days in 2003.

"This data is troubling because what it really means is injured workers are getting fewer services," said Frederick P. Somers, Executive Director of AOTA. "It will have an impact on productivity—people won't get back to work; and it will impact personal income—the burden of paying for rehabilitation therapies will be transferred to injured individuals and families. If people don't regain full function, over the long term, long-term disability costs are going to skyrocket."

Given these startling figures, AOTA is working with California therapists and policy makers to assure that utilization guidelines are appropriate, implemented fairly, and processed efficiently.

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**Note: Linda Botten will testify at the public hearing on the proposed regulatory action on March 22 at 10 a.m. at the Governor Hiram Johnson State Office Building in San Francisco.**

*Occupational therapy is a proven, recognized therapy that enables people to overcome injuries and other disabilities to be productive members of the workforce. Occupational therapists use work-related activities in the assessment, treatment, and management of individuals whose ability to work has been impaired by physical, emotional, or developmental illness or injury. Work rehabilitation provides a transition between acute care and return to work by addressing the issues of safety, physical tolerance, work behavior, and functional ability.*

*The American Occupational Therapy Association is the nationally recognized professional association of more than 35,000 occupational therapists, occupational therapy assistants, and students of occupational therapy. These practitioners serve people with physical illnesses and injuries, congenital and chronic conditions, and mental and developmental disabilities, helping them regain, develop, and build skills essential to restoring or maintaining independent function, health and well-being, and social participation. For more information, please visit [www.aota.org](http://www.aota.org).*

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