

# The Chief

Civil Service LEADER

THE CIVIL EMPLOYEES' WEEKLY

PRICE \$1.00

thechiefleader.com

NEW YORK, NY • FRIDAY, JULY 20, 2012

## Claim Workers' Comp Guidelines Change Has Hurt Injured and State

### Say Handling Challenges To Coverage Costing More Than Prior Treatment

By SARAH DORSEY

An attorney-led advocacy group said that employers and insurers are losing millions each year defending challenges to a state Workers' Compensation Board ruling that limited care for thousands of injured employees.

Dispensing with the challenges costs more than twice what it would to cover the treatments, and heavily burdens the state, which held thousands of hearings on the subject last year, the New York Workers Compensation Alliance reported. A Workers' Comp Board spokesman declined comment.

#### Crucial Cutback in Coverage

On Dec. 1, 2010, the board revised its medical-treatment guidelines, eliminating coverage for workers with back, knee, neck and shoulder injuries who haven't shown "functional improvement." The board retroactively applied the changes, canceling payment for thousands of patients' regular chiropractic and physical-therapy visits.

The WCA, using documents requested through the state Freedom of Information Law, found that in the first full year of the guidelines, the board received 231,544 requests for

(Continued on Page 14)



ROBERT GREY: Injured not treated humanely.

## Hit Workers' Comp Shift

(Continued from Page 1)

exceptions from health-care providers. Dealing with those requests likely cost more than \$37 million, while providing the treatment would have cost less than \$20 million, the group estimated.

Opponents of the changes said they effectively ended care for all workers with chronic conditions, for whom treatments are often palliative or simply allow them to function, rather than actively healing the injury.

Brian Keegan, a spokesman for the board, told the Daily News last September that it was a step toward accountability.

"In the past, there was no objective and consistent standard for determining whether the care was effective, which can lead to potential fraud, delay and mismanagement of the system," Mr. Keegan said, adding that 78 percent of requests by providers to deviate from the prescribed treatments were granted.

#### Bill Died in State Senate

The WCA conducted its study in March in support of S. 3741, a state bill that would have forbidden the board from retroactively applying the rule. For the second year in a row, the Assembly passed the measure but it wasn't sent for a floor vote in the Senate before the session ended in June.

Robert Grey, the chairman of the WCA's board, said the change to the guidelines affected tens of thousands of patients, many of whom had been receiving treatments for years or even decades.

"You have people with injuries that go back a number of years, and that treatment was helping them and in many instances allowing them to continue to work, and the [board] just suddenly pulled the rug out from under them," he said.

And covering only treatment that leads to recovery discounts patients with chronic pain, he added. "People are not pistons or tools that you put in a machine and don't worry about how it feels, the only question is can it handle the stress. On a very fundamental level, people feel they aren't treated as human beings by these guidelines."

Mr. Grey dismissed Mr. Keegan's claim that most doctor requests were granted.

"You can ask 1,000 people and let me know if you find one person who says [that] makes any sense to them. Doctors, claimants, lawyers on either side of the table—no one can reconcile those claims with what they see every day... [Those] requests are hardly ever granted."

#### Doesn't Square With Reality

Another New York City Workers' Compensation attorney, who spoke conditioned on anonymity, called changing the treatment guidelines



GEORGE MAZIARZ: Not sure he'll push bill again.

"unconscionable at best," and said it severely affected the quality of life of thousands of employees.

He said a worker might have been "willing to accept X amount of dollars a week, understanding that he was going to get his chiropractic treatment two to three times a month." He likely gave up something to get that deal, "and now they're saying... too bad."

"[Patients often] have difficulty getting up in the morning or moving or ambulating because they're not getting this maintenance," he added.

A spokesman for Republican State Sen. George Maziarz, who sponsored S. 3741, declined to say whether the lawmaker would reintroduce the bill next year.

Mr. Grey said that nearly 50 Workers' Compensation bills were introduced in the Legislature this year, but only two passed, in part because lawmakers were wary about increasing costs. Just a month before the end of the legislative session, the Compensation Insurance Rating Board requested an 11.5-percent rate hike, adding to legislators' reluctance, he said.