

THE INDUSTRIAL COMMISSION OF ARIZONA OFFICE OF THE DIRECTOR



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Directed Care in Arizona Workers' Compensation Claims

Dear Stakeholder,

The Industrial Commission of Arizona continues to receive complaints about entities that are directing care in violation of the Arizona Workers' Compensation Act. Please be advised that the *only* entities authorized to direct care in Arizona are private self-insured employers. Employees of insured employers or public self-insured entities have the right to choose their own medical providers. See A.R.S. § 23-1070(A); *Southwest Gas Corp. v. Indus. Comm'n*, 200 Ariz. 292, 25 P.3d 1164 (2001).

The Commission is aware that some workers' compensation insurance carriers and public self-insured employers use "networks" of "preferred" providers in processing workers' compensation claims. Although the appropriate use of "networks" may not violate Arizona law, any conduct that impairs or obstructs the right of injured workers to choose a medical provider or that results in a delay of medical care may constitute bad faith under A.R.S. § 23-930 and Arizona Administrative Code R20-5-163. See R20-5-163(A)(6) ("bad faith" includes "unreasonabl[e] interfer[ence] with or obstruct[ion of] the claimant's right to choose the claimant's attending physician except in cases involving a self-insured employer under A.R.S. § 23-1070"); R20-5-163(A)(2) ("bad faith" includes "unreasonably delay[ing]" either the "[p]ayment of benefits" or "[a]uthorization for, or receipt of, medical benefits or treatment."). Examples of improper conduct include:

- Requiring an injured worker to use a "network" or "preferred" provider.
- Communications that imply that an injured worker is required to use a "network" or "preferred" provider.
- Threatening non-payment if an injured worker treats with a "non-network" or "non-preferred" provider.
- Directing "network" or "preferred" providers to only refer injured workers to other "network" or "preferred" providers.
- Requiring "non-network" or "non-preferred" providers to join a network to be able to treat an injured worker.
- Unreasonably delaying medical payments to "non-network" or "non-preferred" providers (see A.R.S. § 23-1062.01).

This letter is intended to be a reminder of Arizona law and serve to prevent inappropriate use of directed care in the future. The Commission intends on holding insurance carriers and public self-insured employers responsible for the actions and conduct taken on their behalf by agents (including networks). To this end, the Commission will be pursuing bad faith on its own motion, where appropriate, to enforce Arizona's directed care law. *See* A.R.S. § 23-930(A); A.A.C. R20-5-163(F). If any interested party or provider believes that an entity is directing care in violation of the Arizona Workers' Compensation Act, they are encouraged to notify the Medical Resource Office at mro@azica.gov or the Claims Division at claims@azica.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Schultz". The signature is written in a cursive style with a large, stylized "D" and "S".

Dale Schultz
Chairman