

CASE LAW UPDATE:

WHEN A CLAIMANT REQUESTS A ONE-TIME CHANGE IN PHYSICIAN, THE E/C IS REQUIRED TO AUTHORIZE A SPECIFIC PHYSICIAN WITHIN 5 DAYS

Harrell v. Citrus County School Board, 35 Fla. L. Weekly D167b
(Fla. 1st DCA January 15, 2010)

The First District Court of Appeal has again addressed the issue of a claimant's right to request a one-time in change in physician. In this case, the claimant submitted a written request to the E/C for a one-time change in physician. Within 5 days of the request, the E/C wrote to the claimant to acknowledge receipt of the request and stated that they agreed to authorize the one-time change. No doctor was named in the response. A couple of weeks later, the E/C wrote to the claimant to advise her of an appointment with her new doctor.

The claimant filed a Petition for Benefits requesting the authorization of a doctor that she had selected on the basis that the E/C failed to timely authorize a new physician. The JCC denied this claim following a final hearing. The First DCA reversed.

According to the First DCA, to comply with §440.13(2)(f), an E/C is not required to schedule an appointment with a newly authorized physician within 5 days of a request for a one-time change, but the E/C is required to authorize at least one specific physician, not professionally affiliated with the previous physician, within 5 days of the request.

This case solidifies what claimant attorneys have argued for years: **If an E/C fails to provide a claimant with a specific physician within 5 days of receiving a request for a one-time change, the claimant is entitled to select the physician of his or her choice and will be entitled to continue treatment with that physician throughout the life of the claim.**

Therefore, when you receive a request for a one-time change in physician, it is imperative that you respond to the request within 5 days by naming the specific physician that you are authorizing. The claimant can be notified of the date and time of the appointment with new physician at a later date.