

COMPENSATION NEWS

MONTHLY REPORT

Supreme Court indicates when an employer disputes need for treatment you must use utilization review

This is a Supreme Court decision of monumental proportions.

This is a significant decision involving interpretation of Labor Code sections 4610 and 4062.

The applicant incurred an admitted industrial injury in 2003. The applicant received medical treatment and the physician requested a magnetic resonance image (MRI). The employer submitted this request for utilization review. The employer did not communicate its decision

within the 14 days required by Labor Code section 4610.

The applicant attorney requested an expedited hearing. The Workers' Compensation Judge (WCJ) found the employer failed to comply and ordered the MRI. The employer filed a petition for reconsideration.

The Workers' Compensation Appeals Board (WCAB) heard the case en banc and issued a decision saying that even though the employer missed the deadline for review under 4610, they could still use Labor Code section 4062. Under 4062 the employer could dispute the treating physician.

The employer filed a writ with the Court of Appeal who issued an opinion agreeing with the WCAB. The Court of Appeal indicated that even though the

employer was precluded from the utilization review process the employer could still utilize section 4062.

The Supreme Court analyzed Senate Bills 228 and 899 and overturned the lower court decision. The Supreme Court determined based on the language of the statutes that you must use the utilization review process of section 4610 and cannot rely on 4062. This is extremely important since you have to react quickly within the time constraints of 4610.

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