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September 4, 2009

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Sent Via E-mail and U.S. Mail

James E. Marsh, Director
South Dakota Department of Labor
Division of Labor and Management
Kneip Building
700 Governors Drive
Pierre, SD 57501-2291

Re: Legislative Changes 62-7-8

Dear Director Marsh:

As per our phone conversation, attached is a proposed revision to SDCL 62-7-8 addressing the issue of the fee charged for services provided to South Dakota injured workers by health care providers outside the State of South Dakota. Those health care providers are not legally subject to South Dakota's fee schedule; however, many may be subject to a fee schedule if they were treating injured workers from within that state for the same services. It would seem that if these providers are subject to a fee schedule for treatment of injured workers from within that state, that same fee should be the price that should be charged to a South Dakota employer/insurer for the same services. Again, the idea is not to subject the out-of-state health care provider to the South Dakota fee schedule; rather, it would be to hold them to the same fee schedule they are held to for treatment of injured workers within their own state. The injured workers receive the same treatment regardless; the result, however, is significant savings for South Dakota employers/insurers.

I would be happy to provide examples of situations wherein South Dakota employers were charged the full price for services with a comparison to the applicable state's fee schedule to demonstrate the cost differential.

9/4/2009

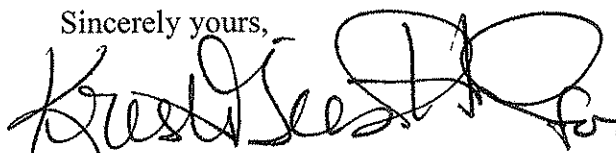
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As we discussed, Minnesota Statute 176.136, contains a comparable provision and I am providing a copy for your review. To my knowledge, there has been no legal challenge to this provision.

I would ask that you place this proposal on the agenda for the upcoming Advisory Council meeting scheduled for September 29, 2009. If you would prefer that I submit the proposal to the Chair of the Advisory Council directly, please let me know and I will do so.

Best regards.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Susan Brunick Simons", written in a cursive style.

SUSAN BRUNICK SIMONS

For the Firm

SBS:sko
Enclosures