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Assessment of 24-Hour Care Options for California

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Prepared for the
California Commission on Health and Safety and Workers' Compensation



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Summary

Background

The California workers' compensation system provides insurance coverage for both medical care and (partial) wage replacement for work-related injuries or other health conditions, as well as disability benefits for workers whose injuries prevent them from returning to work for extended periods. This system, which is governed by state statutes, operates separately from the traditional group health care insurance under which employees and their families obtain coverage for their personal health care, and it operates separately from other disability insurance plans.

The term *24-hour care* refers to the consolidation of health care benefits and, possibly, disability benefits for both work-related and non-work-related claims, so that services are delivered by the same group of providers under a coordinated insurance package. A 24-hour care program could be designed and implemented in various ways. At one extreme, a 24-hour care program could be framed to coordinate only health care providers and services while maintaining separate insurance coverage for work-related and other health care services. At the other extreme, a 24-hour care program could involve merging traditional group-health and workers' compensation plans into integrated insurance products.

An integrated 24-hour care benefits program offers the potential to improve efficiency in claims administration, reduce overuse of workers' compensation-based health services through care management, and reduce related health care costs. These benefits, however, are not yet proven in practice. Further, the kinds of benefits that an integrated system of care might provide are likely to vary, depending on the form of 24-hour care implemented.

Research Questions and Methods

Recognizing the complexity of assessing 24-hour care, we defined five research questions designed to guide a decisionmaking process:

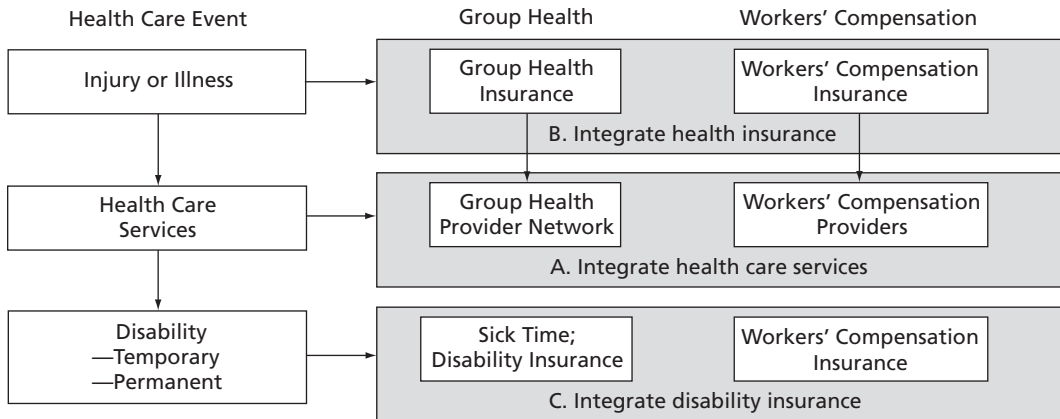
1. What are the problems with the current workers' compensation system that have motivated stakeholders to consider 24-hour care as an option to improve the system?
2. What evidence is there that 24-hour care can address these problems effectively, and how would it need to be designed to do so?
3. What does 24-hour care offer that would make managing health care and costs in this way more effective, compared with reforms now being made (or that could be made) to the existing workers' compensation system?
4. How feasible would it be to implement a 24-hour care system across California within the current employer-based health insurance environment in which employers can offer multiple health plan options?
5. How would the feasibility of implementing 24-hour care change if it were introduced in other group health insurance environments?

In conducting this study, we reviewed existing and pending legislation, published papers, and various documents on 24-hour care systems and relevant program components. We also discussed issues related to 24-hour care with individuals who had experience with these programs. In addition, we researched a series of legal issues that pose constraints for 24-hour care in California, focusing on issues that are of greatest importance to the implementation of 24-hour care. Finally, we conducted eight focus groups that included representatives from the key stakeholder groups concerned with the issue of 24-hour care: public employers, private employers (two groups), labor unions, workers' compensation health care providers, workers' compensation insurers, state regulators, and workers' compensation claimant attorneys. By meeting with these groups of stakeholders, we sought to find out their views on the potential value of 24-hour care, the issues that are of most concern to them, and the incentives that would motivate them to accept and participate in a 24-hour care system.

Options for 24-Hour Care Program Design

The numerous design options for 24-hour care can be quickly reduced to a few basic prototypes, and the design details of each may vary widely. As shown in Figure S.1, the differences in design derive from whether the medical services or insurance coverage are fully integrated for occupational and nonoccupational injuries or disabilities. The boxes on the left side of Figure S.1 show the generic process through which an individual experiences an injury or illness, obtains care for the health problem, and, possibly, experiences some temporary or permanent disability as a result of the health problem. The boxes on the right side of the figure represent the insurance entities

Figure S.1
Comparison of Integration Options Under 24-Hour Care



RAND MG280-S.1

NOTE: We placed Box B above Box A because workers first must have insurance before filing a claim and receiving care following an injury.

that cover the costs of health care or disability and the providers who deliver the health care services. As shown, both insurance coverage and health care services are separate for work-related or nonoccupational injuries or illnesses.

The shading around the boxes on the right indicates options for integrating the separate benefit components for the two types of injuries or illnesses (those covered by group health or workers' compensation). Box A represents integration of the health care services, such that all health care for an individual would be provided by the same providers. Box B represents the integration of insurance for health care benefits, and Box C represents similar integration of insurance for disability benefits. The 24-hour care options that we considered differ in the extent to which they integrate these components. The least-integrated package would integrate only the medical care services (Box A), the next level would integrate medical services and health insurance benefits (Boxes A and B), and the highest level would integrate medical services and both health and disability benefits (Boxes A, B, and C).

In assessing the feasibility and value of these alternative models for 24-hour care, we took into account how the health insurance environment in which they would be implemented might affect their viability. We considered the following health insurance environments: (1) the current employer-based group health insurance system in which employers may offer multiple plan options; (2) the employer-based "Pay or Play" health insurance framework established by California Senate Bill

(SB) 2;¹ (3) a universal health coverage scheme (e.g., such as proposed in California SB921); and (4) a “carve-out” from traditional workers’ compensation rules in which employers and insurers implement the 24-hour care model on a more limited scale.

Lessons Learned

This study focuses solely on integration of the medical care side of workers’ compensation (and excludes integration of disability benefits). As stated in the previous section, the 24-hour care options that we considered differ in the extent to which they integrate Components A, B, and C in Figure S.1. We first examine two basic options—consolidating only medical care services and consolidating both services and health insurance. Myriad specific design options exist within each basic option. Some of those specific options would be the purview of the state, and others would be decided upon by employers and insurers as they implement 24-hour care plans. In this section, we summarize the key findings from our assessment and present them as answers to the following research questions, which guided our work.

What are the problems with the current workers’ compensation system that have motivated stakeholders to consider 24-hour care as an option to improve the system?

The main problem that has motivated policymakers to search for options to the current California workers’ compensation benefits system is the cost of the system, which has both the highest and the fastest-growing insurance premium costs in the country. These costs are driven by the growth in medical care expenditures in workers’ compensation cases and issues with appropriateness of care. Furthermore, few stakeholders feel that the California system adequately meets the needs of employers or injured workers, which may partially account for the relatively high litigation rates associated with California workers’ compensation claims.

What evidence is there that 24-hour care can address these problems effectively, and how would it need to be designed to do so?

A 24-hour care system offers the potential to reduce both administrative costs and medical care costs. However, despite a substantial amount of published material on the concept of 24-hour care, there have been few systematic attempts to estimate the potential benefits of 24-hour care and almost no attempts to assess the likely benefits of a fully scaled program. Perhaps most troubling, a number of states attempted to introduce 24-hour care pilot programs, but almost all of them failed to

¹ With Pay or Play, employers either offer health insurance coverage to their employees or pay a tax for the cost of coverage provided by the state.

come to fruition because of lack of interest or legal constraints. Some never were implemented and others were not able to attract employers or workers to participate in them.

We found only one empirical evaluation of 24-hour care pilot programs, which was the evaluation performed of a recent 24-hour care pilot program in California, one of the few such programs that has survived (Kominiski et al., 2001). In this pilot program, workers' compensation medical costs were higher than they would have been under the existing system, but costs for permanent and partial disability claims did not change significantly. The effects of the pilot program on costs for non-work-related medical care were not analyzed, which makes it difficult to interpret overall effects. No differences were found in patient satisfaction or in self-reported emotional or functional outcomes.

What does 24-hour care offer that would make managing health care and costs in this way more effective, compared with reforms now being made (or that could be made) to the existing workers' compensation system?

Much of the improvement in care and cost savings that 24-hour care might achieve could be derived within the existing workers' compensation system. Twenty-four hour care might add value by establishing a consolidated structure for delivering health care, which would result in the unified medical care culture needed to create effective processes for improved care management and for controlling costs. However, almost all of those processes could be implemented in the current workers' compensation system, and, in fact, many are being adopted as of this writing under the terms of recent California legislation (SB 228 and SB 899). What is not known is whether the added organizational structure provided by a 24-hour care system could help to consolidate and preserve improved practices, or whether in the absence of such a unified structure, practices introduced by workers' compensation reforms might be weakened over time by political pressures.

A 24-hour care model that integrates only health care for workers' compensation and group health could achieve improvements in health care services and costs, but it would not help to reduce many of the administrative costs of insurance claims processing. To achieve administrative cost savings, a 24-hour care model would be needed that also integrates workers' compensation and group health insurance packages. Integrating insurance coverage also could reduce the need to determine work causality² for many of the less-severe work-related injuries. As long as workers' compensation and group health insurance are separate, determination of work causality would be required to determine whether workers' compensation or group health insurance should pay the medical care claims.

² *Work causality* refers to injury or illness caused by workplace factors and therefore is subject to workers' compensation provisions.

How feasible would it be to implement a 24-hour care system across California within the current employer-based health insurance environment in which employers can offer multiple health plan options?

Our assessment reveals a dilemma: A more fully integrated 24-hour care system offers greater potential for health benefits and cost savings than the current insurance system/insurance environment, but at the same time, it would be less feasible to implement than the proposed changes to the workers' compensation system. The federal Employee Retirement Income Security Act (ERISA) creates this dilemma because it limits the range of 24-hour care designs that are legally permissible in an employer-based health insurance environment. Although we did not perform a formal legal analysis, our review of ERISA suggests that the only 24-hour care options that would be feasible under ERISA are a model that integrates medical care services only (see Box A in Figure S.1) and a model voluntarily implemented by employers that integrates both medical care services and health insurance (see Boxes A and B in Figure S.1).

In addition, our analysis revealed that employers and insurers face operational barriers that would influence their willingness to participate in a voluntary program, such as the time and costs required for employers to negotiate consolidation of coverage with multiple health plans and insurers.

How would the feasibility of implementing 24-hour care change if it were introduced in other group health insurance environments?

To answer this question, we considered two alternative health insurance environments: the Pay or Play system enacted in California SB 2 that expanded employer-based health insurance to smaller employers, and a statewide universal health insurance program.

The Pay or Play system of SB 2 gives small employers the option to introduce group health insurance coverage, which would increase the number of workers who have health insurance. Therefore, a 24-hour care program implemented within the Pay or Play system could cover a larger number of workers than the number it would cover under the current system. Because small employers are likely to offer only a single health care plan, they might be able to implement 24-hour care more easily than larger employers because they would have to convert only one group health plan to the 24-hour integrated model. However, small employers may be the least willing or able to incur the implementation costs of 24-hour care, even if those costs are less than those for large employers.

A 24-hour care system would be much more feasible under universal health insurance than under any employer-based health insurance system because the ERISA constraints would not apply. Universal health insurance also would eliminate some implementation issues because all workers would be covered by the same health insurance program. Therefore, many insurance issues that apply to 24-hour care would

be reduced or eliminated within a universal insurance system because workers would continue to have the same health insurance coverage even when they change jobs.

Recommendations Regarding 24-Hour Care in California

Given the implications of ERISA in the current employer-based health insurance environment, as well as substantial conflicting factors that would affect the design and execution of a 24-hour care program, we believe that it is premature for the state of California to embark on statewide introduction of 24-hour care. First, the alternative approaches to designing a program that effectively addresses the numerous legal and operational issues surrounding 24-hour care, which are identified in this report, should be tested. This testing can best be done by interested employers and insurers who would work in cooperation with the relevant state agencies to develop small-scale 24-hour care pilot programs.

Recommendation: The state should establish the following guidelines that support the voluntary development of small-scale 24-hour care pilots by employers and insurers:

- Undertake pilots that can test both the 24-hour care model that integrates medical care services only and models that integrate both medical services and health insurance.
- Include the requirement that an evaluation is to be performed as an integral part of every pilot program.
- Allow pilots to operate for at least five years before making final judgments on the feasibility and scalability of 24-hour care, which also would allow sufficient time for learning by experience and for adjusting program design as needed.

Recommendation: The implementation of any carve-out 24-hour care pilot program should be accompanied by a high-quality evaluation capable of generating actionable recommendations on program design and program scale-up. In particular, we recommend that any evaluation plan be designed to

- guide in the selection of sites that are likely to yield data that can be generalized across programs to assess both program quality and a program's potential for scale-up and transportability to other sites
- provide detailed information about implementation
- provide valid information about the program's impact on a range of outcome indicators.

Suggestions for Initiating 24-Hour Care Pilot Programs

To ensure that the pilot programs will yield rich information on various approaches to 24-hour care, we encourage the state of California to establish a process that encourages participation by employers, unions, and insurers in the pilot programs and that supports creative approaches to designing those programs. To ensure that workers' rights and welfare are protected, the state should establish a set of performance goals for the pilots with respect to getting injured workers the treatment they need and informing them of their rights and options during the treatment process. The processing of proposals for pilots would be handled by the state, as described in the Carve-Out Manual prepared by CHSWC (2004). Other details of the pilot design should be driven by the participating stakeholders so that the pilots are most appropriate to stakeholders' specific needs and preferences.

The following criteria should be used to identify employers for possible participation in pilots. Desirable candidates would be employers that

- are government entities (not subject to ERISA rules)
- are self-insured for both group health and workers' compensation insurance or obtain both types of insurance coverage from the same insurance company
- offer group health insurance for all their full-time employees
- structure their group health insurance so that definable populations of workers (e.g., workers in one union) are served by one health plan
- have sufficient rates of work-related injuries or illnesses among their workers to ensure that there will be observable use of health benefits for work-related events during the pilot.

Selection of pilot candidates also should provide for variation in employer characteristics with respect to the probability of achieving a successful pilot and variation in the type of job functions, work environment, and injury risk for the employee groups involved. Variation in these characteristics would yield useful information for evaluating the pilot programs.

The state should assume that it would need to take the initiative in identifying candidate employers and approaching them to request their participation in a pilot. The recruitment process would also serve to build working relationships with employers and permit the state to obtain employers' views on how a 24-hour care pilot might be designed. It would be useful for the state to establish an advisory task force composed of employer, union, and insurer representatives to help guide the preparatory work and to provide feedback on issues as they arise. The individuals selected for this task force should be respected leaders in their stakeholder groups and should support testing of 24-hour care.

After an employer is committed to participating in a 24-hour care pilot, the next step of negotiating the design of the pilot are in the hands of the employer, the union(s) represented at the employer's workplace, and, if the employer is not self-insured, the insurers underwriting the employer's group health and workers' compensation insurance. The state should provide technical support for these negotiations to ensure that they comply with any state requirements and to help the parties involved to succeed in designing a workable program plan.

Stakeholder Issues to Be Addressed in Pilot Programs

As the design stage of the pilot progresses, the participants in the design negotiations must address the issues and concerns of each 24-hour care stakeholder group. Success in establishing a program plan and operating an effective pilot will depend to a large extent on how well the stakeholders' concerns are managed in the design and implementation process. The following are some key issues regarding 24-hour care plans that we identified in our discussions with members of stakeholder groups.

Issues for Employers (Public and Private)

- Many employers offer their employees multiple health plan options, and those employers will have to determine which of those plans are candidates for becoming 24-hour care plan(s).
- Employers will need to decide which employee group(s) should be the population served by a 24-hour-care plan.
- The terms of the written contract for a 24-hour-care plan will have to be drafted carefully to ensure that all the intended functions of the plan are specified and fulfilled by the insurer and provider network.
- Many employers will have to adjust their departmental functions to manage any 24-hour care plan that is established because their workers' compensation and group health benefits currently are managed by separate departments.

Issues for Employees

- Employees want to have access to initial care as soon as possible after an event occurs (work-related or not), which is a feature that an effective 24-hour-care plan should be able to provide.
- An effective 24-hour-care plan would be expected to reduce employees' access to some follow-up treatments as part of reducing overuse of services. This expectation would run counter to employees' desire for easy access to follow-up treatments and ready approval of services they believe are medically necessary.

- Employees probably would respond negatively to the introduction of cost sharing for work-related health care services, because it would increase their out-of-pocket costs.

Issues for Insurers

- Insurers may be reluctant to participate in a plan that integrates medical care services only, because the plan would require them to coordinate insurance products and provider networks with another insurer.
- The primary concern of insurers regarding a plan that integrates both medical services and insurance will be how to handle the underwriting of risk for the “tail” of employer liability for medical care for work-related injuries.³

Issues for State Regulators

- The introduction of 24-hour care, even as a pilot, will require the relevant state agencies to establish an infrastructure and regulations to guide the pilot. Such an infrastructure probably would require staff from multiple agencies to work together because the 24-hour care model cuts across workers’ compensation and group health authorities.
- For the 24-hour care model that integrates services and insurance, the separate state regulatory functions in various departments will need to be combined into one authority or otherwise coordinated closely to ensure consistent guidance is provided to the people in the field trying to work with the new model.

Recommendations for Workers’ Compensation

Several issues and concepts directly related to the existing workers’ compensation system emerged from our assessment of options for 24-hour-care programs. Addressing these issues would strengthen the existing system and also would better position the state to implement 24-hour-care pilot programs. We offer the following recommendations for actions by the state to address these issues:

- The requirement for separate medical and fiscal decisionmaking that currently applies to both workers’ compensation and group health managed-care plans should be adopted for the new provider networks specified by California SB 899.

³ The tail of liability refers to liability for covering future health care for a work-related injury covered by workers’ compensation insurance but not covered under a group health insurance model that covers only claims made during the policy year.

- Reforms should be undertaken to address the problems and inefficiencies in the workers' compensation appeals process, with the goal of reducing delays in processing disputes and improving the evidence base for making determinations on the appeals.
- The state should consider adding Independent Medical Review (IMR) to the workers' compensation appeals process to provide a mechanism for review of medical care grievances that precedes taking the appeal to the Workers' Compensation Appeals Board (WCAB).

Summary

Despite continuing interest by California policymakers in 24-hour care as a possible solution to escalating workers' compensation costs, designing and implementing a viable and effective 24-hour care program presents some formidable challenges. Past experience shows that many states failed to get 24-hour-care pilots started, and other states that achieved operating pilots had limited success in achieving cost savings or improvements in care. ERISA is an obvious barrier that affected some of these past efforts, but if our analysis is correct, some 24-hour care models can be developed that would be less affected by ERISA than others. We encourage policymakers to use small-scale pilots to test 24-hour-care models and to move forward carefully as they do so, placing an emphasis on effective design, implementation, and evaluation of the models being tested.