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DEPARTMENT OF JUSTICE
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OPINION 13-0121

Mr. Wes Hataway
Director
Office of Workers' Compensation
Louisiana Workforce Commission
1001 North 23rd Street
Baton Rouge, LA 70804-4187

173-A WORKMEN'S COMPENSATION

La. R.S. 23:1203.1(A)(3); La. R.S. 23:1203.1(J)(2)

The Director of the Office of Workers' Compensation has the authority to make a final decision on conflicts of interest involving the medical director or associate medical director and the parties to a medical necessity dispute.

Dear Mr. Hataway:

Our office received your request for an opinion regarding possible conflicts of interest which may arise under Act 317 of the 2013 Regular Session of the Louisiana Legislature ("Act 317"). In order to properly ascertain the authority given in Act 317, you have requested an opinion of the Attorney General addressing the following questions:

- (1) Whether the Director of the Office of Workers' Compensation has the authority to make a final decision on conflicts of interest involving the medical director or associate medical director and the parties to a medical necessity dispute?
- (2) What situations would cause a conflict of interest to arise between the medical director and the parties in deciding a medical necessity dispute?

La. R.S. 23:1203.1 and La. R.S. 23:1203.1.1, as amended and enacted by Act 317, creates the positions of medical director and associate medical director. The medical director and associate medical director have the authority to resolve disputes involving medical necessity in workmens' compensation cases.

La. R.S. 23:1203.1(J)(2), as amended, authorizes the director to make a determination as to whether a conflict of interest exists in deciding a medical necessity dispute, and states in pertinent part:

J. (2) If either party, the medical director, or associate medical director believes that a potential conflict of interest exists, they shall communicate in writing such information to the director, who shall make a determination

as to whether a conflict exists within two business days. The director shall notify in writing the patient, the physician, and if applicable, the attorney of his decision within two business days.

La. R.S. 23:1203.1(A)(3), as amended, defines "director" as the Director of the Office of Workers' Compensation Administration.

When the provisions of La. R.S. 23:1203.1(A)(3) and La. R.S. 23:1203.1(J)(2) are read together, it is clear that the director referred to in La. R.S. 23:1203.1(J)(2) is the Director of the Office of Workers' Compensation Administration.¹ We are of the opinion that the Director of the Office of Workers' Compensation Administration has the authority to make a final decision on conflicts of interest involving the medical director or associate medical director and the parties to a medical necessity dispute.

The determination of whether a conflict of interest arises between the medical director or associate director and the parties in deciding a medical necessity dispute is based on the specific facts of each individual case. Therefore, we are unable to provide you with an opinion on what factual situations would cause a conflict of interest to arise between the medical director and the parties in deciding a medical necessity dispute.²

In conclusion, it is the opinion of this office that the Director of the Office of Workers' Compensation Administration has the authority to make a final decision on conflicts of interest involving the medical director or associate medical director and the parties to a medical necessity dispute. We hope that this opinion adequately addresses the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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JDC:MSC:jv

¹ La. C.C. Art. 13 requires that laws on the same subject matter must be interpreted in reference to each other.

² It is the policy of the Office of the Attorney General not to make determinations on factual matters. La. Atty. Gen. Op. Nos. 12-0185; 07-0111; 09-0141A; and 08-0334.