

# HOUSE BILL No. 5737

April 2, 1998, Introduced by Reps. Profit, Palamara and Law and referred to the Committee on Health Policy.

A bill to amend 1969 PA 317, entitled "Worker's disability compensation act of 1969," by amending section 315 (MCL 418.315), as amended by 1995 PA 21.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 315. (1) The employer shall furnish, or cause to be  
2 furnished, to an employee who receives a personal injury arising  
3 out of and in the course of employment, reasonable medical, sur-  
4 gical, and hospital services and medicines, or other attendance  
5 or treatment recognized by the laws of this state as legal, when  
6 they are needed. However, an employer is not required to reim-  
7 burse or cause to be reimbursed charges for an optometric service  
8 unless that service was included in the definition of practice of  
9 optometry under section 17401 of ~~Act No. 368 of the Public Acts~~  
10 ~~of 1978, being section 333.17401 of the Michigan Compiled Laws~~  
11 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17401, as of May 20,

1 1992. AN EMPLOYER IS NOT REQUIRED TO REIMBURSE OR CAUSE TO BE  
2 REIMBURSED CHARGES FOR THE SERVICE OF A REGISTERED ATHLETIC  
3 TRAINER UNLESS THAT SERVICE WAS INCLUDED IN THE DEFINITION OF A  
4 REGISTERED ATHLETIC TRAINER UNDER SECTION 17901 OF THE PUBLIC  
5 HEALTH CODE, 1978 PA 368, MCL 333.17901. Attendant or nursing  
6 care shall not be ordered in excess of 56 hours per week if the  
7 care is to be provided by the employee's spouse, brother, sister,  
8 child, parent, or any combination of these persons. After 10  
9 days from the inception of medical care as provided in this sec-  
10 tion, the employee may treat with a physician of his or her own  
11 choice by giving to the employer the name of the physician and  
12 his or her intention to treat with the physician. The employer  
13 or the employer's carrier may file a petition objecting to the  
14 named physician selected by the employee and setting forth rea-  
15 sons for the objection. If the employer or carrier can show  
16 cause why the employee should not continue treatment with the  
17 named physician of the employee's choice, after notice to all  
18 parties and a prompt hearing by a worker's compensation magis-  
19 trate, the worker's compensation magistrate may order that the  
20 employee discontinue treatment with the named physician or pay  
21 for the treatment received from the physician from the date the  
22 order is mailed. The employer shall also supply to the injured  
23 employee dental service, crutches, artificial limbs, eyes, teeth,  
24 eyeglasses, hearing apparatus, and other appliances necessary to  
25 cure, so far as reasonably possible, and relieve from the effects  
26 of the injury. If the employer fails, neglects, or refuses so to  
27 do, the employee shall be reimbursed for the reasonable expense

1 paid by the employee, or payment may be made in behalf of the  
2 employee to persons to whom the unpaid expenses may be owing, by  
3 order of the worker's compensation magistrate. The worker's com-  
4 pensation magistrate may prorate attorney fees at the contingent  
5 fee rate paid by the employee.

6 (2) Except as otherwise provided in subsection (1), all fees  
7 and other charges for any treatment or attendance, service,  
8 devices, apparatus, or medicine under subsection (1), are subject  
9 to rules promulgated by the bureau of worker's compensation pur-  
10 suant to ~~Act No. 306 of the Public Acts of 1969, being sections~~  
11 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ THE ADMINISTRA-  
12 TIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.  
13 The rules promulgated shall establish schedules of maximum  
14 charges for the treatment or attendance, service, devices, appa-  
15 ratus, or medicine, which schedule shall be annually revised. A  
16 health facility or health care provider shall be paid either its  
17 usual and customary charge for the treatment or attendance, serv-  
18 ice, devices, apparatus, or medicine, or the maximum charge  
19 established under the rules, whichever is less.

20 (3) The director of the bureau shall provide for an advisory  
21 committee to aid and assist in establishing the schedules of max-  
22 imum charges under subsection (2) for charges or fees that are  
23 payable under this section. The advisory committee shall be  
24 appointed by and serve at the pleasure of the director.

25 (4) If a carrier determines that a health facility or health  
26 care provider has made any excessive charges or required  
27 unjustified treatment, hospitalization, or visits, the health

1 facility or health care provider shall not receive payment under  
2 this chapter from the carrier for the excessive fees or unjusti-  
3 fied treatment, hospitalization, or visits, and is liable to  
4 return to the carrier the fees or charges already collected. The  
5 bureau may review the records and medical bills of a health  
6 facility or health care provider determined by a carrier to not  
7 be in compliance with the schedule of charges or to be requiring  
8 unjustified treatment, hospitalization, or office visits.

9       (5) As used in this section, "utilization review" means the  
10 initial evaluation by a carrier of the appropriateness in terms  
11 of both the level and the quality of health care and health serv-  
12 ices provided an injured employee, based on medically accepted  
13 standards. A utilization review shall be accomplished by a car-  
14 rier pursuant to a system established by the bureau that identi-  
15 fies the utilization of health care and health services above the  
16 usual range of utilization for the health care and health serv-  
17 ices based on medically accepted standards and provides for  
18 acquiring necessary records, medical bills, and other information  
19 concerning the health care or health services.

20       (6) By accepting payment under this chapter, a health facil-  
21 ity or health care provider shall be considered to have consented  
22 to submitting necessary records and other information concerning  
23 health care or health services provided for utilization review  
24 pursuant to this section. The health facilities and health care  
25 providers shall be considered to have agreed to comply with any  
26 decision of the bureau pursuant to subsection (7). A health  
27 facility or health care provider that submits false or misleading

1 records or other information to a carrier or the bureau is guilty  
2 of a misdemeanor, punishable by a fine of not more than  
3 \$1,000.00, or by imprisonment for not more than 1 year, or both.

4 (7) If it is determined by a carrier that a health facility  
5 or health care provider improperly overutilized or otherwise  
6 rendered or ordered inappropriate health care or health services,  
7 or that the cost of the health care or health services was inap-  
8 propriate, the health facility or health care provider may appeal  
9 to the bureau regarding that determination pursuant to procedures  
10 provided for under the system of utilization review.

11 (8) The criteria or standards established for the utiliza-  
12 tion review shall be established by rules promulgated by the  
13 bureau. A carrier that complies with the criteria or standards  
14 as determined by the bureau shall be certified by the  
15 department.

16 (9) If a health facility or health care provider provides  
17 health care or a health service that is not usually associated  
18 with, is longer in duration in time than, is more frequent than,  
19 or extends over a greater number of days than that health care or  
20 service usually does with the diagnosis or condition for which  
21 the patient is being treated, the health facility or health care  
22 provider may be required by the carrier to explain the necessity  
23 or indication for the reasons why in writing.

24 Enacting section 1. This amendatory act does not take  
25 effect unless House Bill No. 4789 of the 89th Legislature is  
26 enacted into law.