

HOUSE BILL No. 6411

September 9, 2008, Introduced by Rep. Gaffney 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 1998 PA 447.

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,
4 surgical, 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 reimburse
7 or cause to be reimbursed charges for an optometric service unless
8 that service was included in the definition of practice of
9 optometry under section 17401 of the public health code, 1978 PA

1 368, MCL 333.17401, as of May 20, 1992 OR FOR A CHIROPRACTIC
2 SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE DEFINITION OF
3 PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE PUBLIC HEALTH
4 CODE, 1978 PA 368, MCL 333.16401, AS OF JANUARY 1, 2008. An
5 employer is not required to reimburse or cause to be reimbursed
6 charges for services performed by a profession that was not
7 licensed or registered by the laws of this state on or before
8 January 1, 1998, but that becomes licensed, registered, or
9 otherwise recognized by the laws of this state after January 1,
10 1998. Attendant or nursing care shall not be ordered in excess of
11 56 hours per week if the care is to be provided by the employee's
12 spouse, brother, sister, child, parent, or any combination of these
13 persons. After 10 days from the inception of medical care as
14 provided in this section, the employee may treat with a physician
15 of his or her own choice by giving to the employer the name of the
16 physician and his or her intention to treat with the physician. The
17 employer or the employer's carrier may file a petition objecting to
18 the named physician selected by the employee and setting forth
19 reasons for the objection. If the employer or carrier can show
20 cause why the employee should not continue treatment with the named
21 physician of the employee's choice, after notice to all parties and
22 a prompt hearing by a worker's compensation magistrate, the
23 worker's compensation magistrate may order that the employee
24 discontinue treatment with the named physician or pay for the
25 treatment received from the physician from the date the order is
26 mailed. The employer shall also supply to the injured employee
27 dental service, crutches, artificial limbs, eyes, teeth,

1 eyeglasses, hearing apparatus, and other appliances necessary to
2 cure, so far as reasonably possible, and relieve from the effects
3 of the injury. If the employer fails, neglects, or refuses so to
4 do, the employee shall be reimbursed for the reasonable expense
5 paid by the employee, or payment may be made in behalf of the
6 employee to persons to whom the unpaid expenses may be owing, by
7 order of the worker's compensation magistrate. The worker's
8 compensation magistrate may prorate attorney fees at the contingent
9 fee rate paid by the employee.

10 (2) Except as otherwise provided in subsection (1), all fees
11 and other charges for any treatment or attendance, service,
12 devices, apparatus, or medicine under subsection (1), are subject
13 to rules promulgated by the ~~bureau of worker's compensation~~
14 **WORKERS' COMPENSATION AGENCY** pursuant to the administrative
15 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The
16 rules promulgated shall establish schedules of maximum charges for
17 the treatment or attendance, service, devices, apparatus, or
18 medicine, which schedule shall be annually revised. A health
19 facility or health care provider shall be paid either its usual and
20 customary charge for the treatment or attendance, service, devices,
21 apparatus, or medicine, or the maximum charge established under the
22 rules, whichever is less.

23 (3) The director of the ~~bureau~~ **WORKERS' COMPENSATION AGENCY**
24 shall provide for an advisory committee to aid and assist in
25 establishing the schedules of maximum charges under subsection (2)
26 for charges or fees that are payable under this section. The
27 advisory committee shall be appointed by and serve at the pleasure

1 of the director.

2 (4) If a carrier determines that a health facility or health
3 care provider has made any excessive charges or required
4 unjustified treatment, hospitalization, or visits, the health
5 facility or health care provider shall not receive payment under
6 this chapter from the carrier for the excessive fees or unjustified
7 treatment, hospitalization, or visits, and is liable to return to
8 the carrier the fees or charges already collected. The ~~bureau~~
9 **WORKERS' COMPENSATION AGENCY** may review the records and medical
10 bills of a health facility or health care provider determined by a
11 carrier to not be in compliance with the schedule of charges or to
12 be requiring unjustified treatment, hospitalization, or office
13 visits.

14 (5) As used in this section, "utilization review" means the
15 initial evaluation by a carrier of the appropriateness in terms of
16 both the level and the quality of health care and health services
17 provided an injured employee, based on medically accepted
18 standards. A utilization review shall be accomplished by a carrier
19 pursuant to a system established by the ~~bureau~~ **WORKERS'**
20 **COMPENSATION AGENCY** that identifies the utilization of health care
21 and health services above the usual range of utilization for the
22 health care and health services based on medically accepted
23 standards and provides for acquiring necessary records, medical
24 bills, and other information concerning the health care or health
25 services.

26 (6) By accepting payment under this chapter, a health facility
27 or health care provider shall be considered to have consented to

1 submitting necessary records and other information concerning
2 health care or health services provided for utilization review
3 pursuant to this section. The health facilities and health care
4 providers shall be considered to have agreed to comply with any
5 decision of the ~~bureau~~**WORKERS' COMPENSATION AGENCY** pursuant to
6 subsection (7). A health facility or health care provider that
7 submits false or misleading records or other information to a
8 carrier or the ~~bureau~~**WORKERS' COMPENSATION AGENCY** is guilty of a
9 misdemeanor ~~—~~punishable by a fine of not more than \$1,000.00 ~~—~~or
10 by imprisonment for not more than 1 year, or both.

11 (7) If it is determined by a carrier that a health facility or
12 health care provider improperly overutilized or otherwise rendered
13 or ordered inappropriate health care or health services, or that
14 the cost of the health care or health services was inappropriate,
15 the health facility or health care provider may appeal to the
16 ~~bureau~~**WORKERS' COMPENSATION AGENCY** regarding that determination
17 pursuant to procedures provided for under the system of utilization
18 review.

19 (8) The criteria or standards established for the utilization
20 review shall be established by rules promulgated by the ~~bureau~~
21 **WORKERS' COMPENSATION AGENCY**. A carrier that complies with the
22 criteria or standards as determined by the ~~bureau~~**WORKERS'**
23 **COMPENSATION AGENCY** shall be certified by the department.

24 (9) If a health facility or health care provider provides
25 health care or a health service that is not usually associated
26 with, is longer in duration in time than, is more frequent than, or
27 extends over a greater number of days than that health care or

1 service usually does with the diagnosis or condition for which the
2 patient is being treated, the health facility or health care
3 provider may be required by the carrier to explain the necessity or
4 indication for the reasons why in writing.