

SUBSTITUTE FOR
HOUSE BILL NO. 5737

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 SERVICES PERFORMED BY A [PROFESSION THAT WAS
3 NOT LICENSED OR REGISTERED BY THE LAWS OF THIS STATE ON OR BEFORE
4 JANUARY 1, 1998, BUT THAT BECOMES LICENSED, REGISTERED, OR OTHERWISE
RECOGNIZED BY THE LAWS OF THIS STATE AFTER JANUARY 1, 1998.]
5 Attendant or nursing care shall not be ordered
6 in excess of 56 hours per week if the care is to be provided by
7 the employee's spouse, brother, sister, child, parent, or any
8 combination of these persons. After 10 days from the inception
9 of medical care as provided in this section, the employee may
10 treat with a physician of his or her own choice by giving to the
11 employer the name of the physician and his or her intention to
12 treat with the physician. The employer or the employer's carrier
13 may file a petition objecting to the named physician selected by
14 the employee and setting forth reasons for the objection. If the
15 employer or carrier can show cause why the employee should not
16 continue treatment with the named physician of the employee's
17 choice, after notice to all parties and a prompt hearing by a
18 worker's compensation magistrate, the worker's compensation mag-
19 istrate may order that the employee discontinue treatment with
20 the named physician or pay for the treatment received from the
21 physician from the date the order is mailed. The employer shall
22 also supply to the injured employee dental service, crutches,
23 artificial limbs, eyes, teeth, eyeglasses, hearing apparatus, and
24 other appliances necessary to cure, so far as reasonably possi-
25 ble, and relieve from the effects of the injury. If the employer
26 fails, neglects, or refuses so to do, the employee shall be reim-
27 bursed for the reasonable expense paid by the employee, or
payment may be made in behalf of the employee to persons to whom

1 the unpaid expenses may be owing, by order of the worker's
2 compensation magistrate. The worker's compensation magistrate
3 may prorate attorney fees at the contingent fee rate paid by the
4 employee.

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

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

24 (4) If a carrier determines that a health facility or health
25 care provider has made any excessive charges or required unjusti-
26 fied treatment, hospitalization, or visits, the health facility
27 or health care provider shall not receive payment under this

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

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

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

1 of a misdemeanor, punishable by a fine of not more than
2 \$1,000.00, or by imprisonment for not more than 1 year, or both.

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

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

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