

# HOUSE BILL No. 5108

June 16, 2009, Introduced by Rep. Angerer and referred to the Committee on Insurance.

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  
10 368, MCL 333.17401, as of May 20, 1992 **OR FOR A CHIROPRACTIC**

1 SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE DEFINITION OF  
2 PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE PUBLIC HEALTH  
3 CODE, 1978 PA 368, MCL 333.16401, AS OF JANUARY 1, 2009. An  
4 employer is not required to reimburse or cause to be reimbursed  
5 charges for services performed by a profession that was not  
6 licensed or registered by the laws of this state on or before  
7 January 1, 1998, but that becomes licensed, registered, or  
8 otherwise recognized by the laws of this state after January 1,  
9 1998. Attendant or nursing care shall not be ordered in excess of  
10 56 hours per week if the care is to be provided by the employee's  
11 spouse, brother, sister, child, parent, or any combination of these  
12 persons. After 10 days from the inception of medical care as  
13 provided in this section, the employee may treat with a physician  
14 of his or her own choice by giving to the employer the name of the  
15 physician and his or her intention to treat with the physician. The  
16 employer or the employer's carrier may file a petition objecting to  
17 the named physician selected by the employee and setting forth  
18 reasons for the objection. If the employer or carrier can show  
19 cause why the employee should not continue treatment with the named  
20 physician of the employee's choice, after notice to all parties and  
21 a prompt hearing by a worker's compensation magistrate, the  
22 worker's compensation magistrate may order that the employee  
23 discontinue treatment with the named physician or pay for the  
24 treatment received from the physician from the date the order is  
25 mailed. The employer shall also supply to the injured employee  
26 dental service, crutches, artificial limbs, eyes, teeth,  
27 eyeglasses, hearing apparatus, and other appliances necessary to

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

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

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

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

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

25           (6) By accepting payment under this chapter, a health facility  
26 or health care provider shall be considered to have consented to  
27 submitting necessary records and other information concerning

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

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

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

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

- 1 patient is being treated, the health facility or health care
- 2 provider may be required by the carrier to explain the necessity or
- 3 indication for the reasons why in writing.