

SENATE BILL No. 693

November 14, 2013, Introduced by Senators HILDENBRAND, MOOLENAAR, PAPPAGEORGE, WARREN, GREEN, MEEKHOF, CASPERSON and BRANDENBURG 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 2011 PA 266.

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
11 service unless that service was included in the definition of

1 practice of chiropractic under section 16401 of the public health
2 code, 1978 PA 368, MCL 333.16401, as of January 1, 2009. An
3 employer is not required to reimburse or cause to be reimbursed
4 charges for services performed by a profession that was not
5 licensed or registered by the laws of this state on or before
6 January 1, 1998, but that becomes licensed, registered, or
7 otherwise recognized by the laws of this state after January 1,
8 1998. **AN EMPLOYER IS NOT REQUIRED TO REIMBURSE OR CAUSE TO BE**
9 **REIMBURSED CHARGES FOR PHYSICAL THERAPY SERVICE UNLESS THAT SERVICE**
10 **WAS PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST**
11 **ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST**
12 **PURSUANT TO A PRESCRIPTION FROM A HEALTH PROFESSIONAL AS THAT TERM**
13 **IS DEFINED IN SECTION 17801 OF THE PUBLIC HEALTH CODE, 1978 PA 368,**
14 **MCL 333.17801.** Attendant or nursing care shall not be ordered in
15 excess of 56 hours per week if the care is to be provided by the
16 employee's spouse, brother, sister, child, parent, or any
17 combination of these persons. After 28 days from the inception of
18 medical care as provided in this section, the employee may treat
19 with a physician of his or her own choice by giving to the employer
20 the name of the physician and his or her intention to treat with
21 the physician. The employer or the employer's carrier may file a
22 petition objecting to the named physician selected by the employee
23 and setting forth reasons for the objection. If the employer or
24 carrier can show cause why the employee should not continue
25 treatment with the named physician of the employee's choice, after
26 notice to all parties and a prompt hearing by a worker's
27 compensation magistrate, the worker's compensation magistrate may

1 order that the employee discontinue treatment with the named
2 physician or pay for the treatment received from the physician from
3 the date the order is mailed. The employer shall also supply to the
4 injured employee dental service, crutches, artificial limbs, eyes,
5 teeth, eyeglasses, hearing apparatus, and other appliances
6 necessary to cure, so far as reasonably possible, and relieve from
7 the effects of the injury. If the employer fails, neglects, or
8 refuses so to do, the employee shall be reimbursed for the
9 reasonable expense paid by the employee, or payment may be made in
10 behalf of the employee to persons to whom the unpaid expenses may
11 be owing, by order of the worker's compensation magistrate. The
12 worker's compensation magistrate may prorate attorney fees at the
13 contingent fee rate paid by the employee.

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

26 (3) The director of the workers' compensation agency shall
27 provide for an advisory committee to aid and assist in establishing

1 the schedules of maximum charges under subsection (2) for charges
2 or fees that are payable under this section. The advisory committee
3 shall be appointed by and serve at the pleasure of the director.

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

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

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

1 ~~submitting~~ **AGREED TO SUBMIT** necessary records and other information
2 concerning health care or health services provided for utilization
3 review pursuant to this section. The health facilities and health
4 care providers ~~shall be~~ **ARE** considered to have agreed to comply
5 with any decision of the 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 workers' compensation agency is guilty of a
9 misdemeanor punishable by a fine of not more than \$1,000.00 or by
10 imprisonment for not more than 1 year, or both.

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

19 (8) The **WORKERS' COMPENSATION AGENCY SHALL ESTABLISH** criteria
20 or standards ~~established for the~~ **FOR** utilization review ~~shall be~~
21 ~~established by rules promulgated by the workers' compensation~~
22 ~~agency.~~ **BY RULE.** A carrier that complies with the criteria or
23 standards as determined by the workers' compensation agency shall
24 be certified by the department.

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

1 extends over a greater number of days than that health care or
2 service usually ~~does with~~ **REQUIRES FOR** the diagnosis or condition
3 for which the patient is being treated, the **CARRIER MAY REQUIRE THE**
4 health facility or health care provider ~~may be required by the~~
5 ~~carrier~~ to explain the necessity or indication for ~~the reasons why~~
6 **THAT CARE OR SERVICE** in writing.

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No.690

9 of the 97th Legislature is enacted into law.