

SENATE BILL No. 1152

March 15, 2006, Introduced by Senators McMANUS and ALLEN 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.~~ An employer is not
2 required to reimburse or cause to be reimbursed charges for
3 services performed by a profession that was not licensed or
4 registered by the laws of this state on or before January 1, 1998,
5 but that becomes licensed, registered, or otherwise recognized by
6 the laws of this state after January 1, 1998. Attendant or nursing
7 care shall not be ordered in excess of 56 hours per week if the
8 care is to be provided by the employee's spouse, brother, sister,
9 child, parent, or any combination of these persons. After 10 days
10 from the inception of medical care as provided in this section, the
11 employee may treat with a physician of his or her own choice by
12 giving to the employer the name of the physician and his or her
13 intention to treat with the physician. The employer or the
14 employer's carrier may file a petition objecting to the named
15 physician selected by the employee and setting forth reasons for
16 the objection. If the employer or carrier can show cause why the
17 employee should not continue treatment with the named physician of
18 the employee's choice, after notice to all parties and a prompt
19 hearing by a worker's compensation magistrate, the worker's
20 compensation magistrate may order that the employee discontinue
21 treatment with the named physician or pay for the treatment
22 received from the physician from the date the order is mailed. The
23 employer shall also supply to the injured employee dental service,
24 crutches, artificial limbs, eyes, teeth, eyeglasses, hearing
25 apparatus, and other appliances necessary to cure, so far as
26 reasonably possible, and relieve from the effects of the injury. If
27 the employer fails, neglects, or refuses so to do, the employee

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

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

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

26 (4) If a carrier determines that a health facility or health
27 care provider has made any excessive charges or required

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

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

23 (6) By accepting payment under this chapter, a health facility
24 or health care provider shall be considered to have consented to
25 submitting necessary records and other information concerning
26 health care or health services provided for utilization review
27 pursuant to this section. The health facilities and health care

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

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

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

21 (9) If a health facility or health care provider provides
22 health care or a health service that is not usually associated
23 with, is longer in duration in time than, is more frequent than, or
24 extends over a greater number of days than that health care or
25 service usually does with the diagnosis or condition for which the
26 patient is being treated, the health facility or health care
27 provider may be required by the carrier to explain the necessity or

1 indication for the reasons why in writing.