S T A T E O F N E W Y O R K

6997

I N S E N A T E

April 11, 2014

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to requiring the medical advisory committee to establish the use of comprehensive nationally recognized treatment guidelines for all body parts or conditions which have no recommendations by such advisory committee

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 13-a of the workers' compensation law, as amended by chapter 6 of the laws of 2007 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(5) (A) No claim for specialist consultations, surgical operations, physiotherapeutic or occupational therapy procedures, x-ray examinations or special diagnostic laboratory tests costing more than one thousand dollars shall be valid and enforceable, as against such employer, unless such special services shall have been authorized by the employer or by the board, or unless such authorization has been unreasonably withheld, or withheld for a period of more than thirty calendar days from receipt of a request for authorization, or unless such special services are required in an emergency, provided, however, that the basis for a denial of such authorization by the employer must be based on a conflicting second opinion rendered by a physician authorized by the board. The board, with the approval of the superintendent of financial services, shall issue and maintain a list of pre-authorized procedures under this section.

(B)(I) THE MEDICAL ADVISORY COMMITTEE SHALL RECOMMEND AND THE BOARD SHALL ADOPT THE TEMPORARY USE OF COMPREHENSIVE NATIONALLY RECOGNIZED TREATMENT GUIDELINES FOR BODY PARTS OR CONDITIONS WHERE NO AGREED UPON WORKERS' COMPENSATION TREATMENT GUIDELINE EXISTS. UNTIL SUCH TIME THAT THE MEDICAL ADVISORY COMMITTEE MAKES A RECOMMENDATION FOR A BODY PART OR A PARTICULAR CONDITION AND THE BOARD ADOPTS GUIDELINES FOR SAID BODY PART OR CONDITION, A QUALIFYING NATIONALLY RECOGNIZED TREATMENT GUIDE-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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LINE SHALL BE USED FOR TREATMENT COVERED UNDER WORKERS' COMPENSATION IN NEW YORK STATE.

(II) THE MEDICAL ADVISORY COMMITTEE SHALL HAVE ONE HUNDRED EIGHTY DAYS TO ISSUE A WRITTEN RECOMMENDATION INDICATING THE SELECTION OF A QUALIFYING GUIDELINE TO THE BOARD FOR IMMEDIATE ADOPTION BASED UPON REVIEW OF NATIONALLY RECOGNIZED, EVIDENCE-BASED MEDICAL TREATMENT GUIDELINES THAT MEET THE FOLLOWING CRITERIA: (A) ARE UPDATED AT LEAST ANNUALLY TO REFLECT THE BEST SCIENCE; AND (B) THE CURRENT VERSION OF WHICH HAS BEEN ADOPTED VERBATIM BY LEGISLATION, REGULATION OR RULE IN AT LEAST FIVE STATES FOR TREATMENT COVERED UNDER WORKERS' COMPENSATION. THE QUALIFYING NATIONALLY RECOGNIZED GUIDELINES SHALL BE TEMPORARY AND IN EFFECT FOR A PERIOD OF TWO YEARS OR UNTIL THE ADVISORY COMMITTEE HAS MADE A RECOMMENDATION AND THE BOARD HAS ADOPTED A GUIDELINE FOR TREATMENT OF A BODY PART OR CONDITION. IF, AFTER THE FIRST TWO YEARS AND EVERY TWO YEARS THEREAFTER, THE ADVISORY COMMITTEE HAS NOT MADE A RECOMMENDATION AND THE BOARD HAS NOT ADOPTED A GUIDELINE ON A PARTICULAR BODY PART OR CONDITION THEN THE ADVISORY COMMITTEE SHALL REVIEW THE QUALIFYING NATIONALLY RECOGNIZED GUIDELINES AND THE BOARD SHALL ADOPT A TWO YEAR EXTENSION OF SUCH GUIDELINES BY A TWO-THIRDS MAJORITY VOTE OF THE MEDICAL ADVISORY COMMITTEE OR ESTABLISH A NEW QUALIFYING TREATMENT GUIDELINE.

S 2. This act shall take effect immediately.