

STATE OF NEW YORK

2066

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. BARNWELL -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to ensuring timely access to high-quality medical care

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 5 of section 13-a of the workers' compensation
2 law, as amended by section 8 of part CC of chapter 55 of the laws of
3 2019, is amended to read as follows:

4 (5) No claim for specialist consultations, surgical operations,
5 physiotherapeutic or occupational therapy procedures, x-ray examinations
6 or special diagnostic laboratory tests costing more than [~~one~~] two thou-
7 sand dollars shall be valid and enforceable, as against such employer,
8 unless such special services shall have been authorized by the employer
9 or by the board, or unless such authorization has been unreasonably
10 withheld, or withheld for a period of more than [~~thirty~~] seven calendar
11 days from receipt of a request for authorization, or unless such special
12 services are required in an emergency, provided, however, that the basis
13 for a denial of such authorization by the employer must be based on a
14 conflicting second opinion rendered by a physician authorized by the
15 board. The board, with the approval of the superintendent of financial
16 services, shall issue and maintain a list of pre-authorized procedures
17 under this section. Such list of pre-authorized procedures shall be
18 issued and maintained for the purpose of expediting authorization of
19 treatment of injured workers. Such list of pre-authorized procedures
20 shall not prohibit varied treatment when the treating provider demon-
21 strates the appropriateness and medical necessity of such treatment.

22 Such list of pre-authorized procedures shall not be construed or relied
23 upon to support the premise that procedures not included on the pre-au-
24 thorized list should be denied. Pre-authorized procedures shall not be
25 given preference over alternative forms of treatment that are not on the

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

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1 pre-authorized procedures list. Such list shall include concurrent
2 enrollment in an addiction and/or dependency treatment program for all
3 injured workers subject to opioid weaning.

4 § 2. Paragraph (c) of subdivision 7 of section 13-a of the workers'
5 compensation law, as added by chapter 6 of the laws of 2007, is amended
6 to read as follows:

7 (c) At the time a request for authorization for special diagnostic
8 tests, x-ray examinations, magnetic resonance imaging or other radiolog-
9 ical examinations or tests costing more than ~~one~~ two thousand dollars
10 as required by subdivision five of this section is approved, the insur-
11 ance carrier, self-insurer or state insurance fund, or if so delegated
12 the network with which the insurance carrier, self-insurer or state
13 insurance fund has contracted, shall notify the physician requesting
14 authorization of the requirement that the claimant obtain or undergo the
15 special diagnostic test, x-ray examination, magnetic resonance imaging
16 or other radiological examination or test with a provider or at a facil-
17 ity affiliated with the network or networks with which it has
18 contracted, the contact information for the network and a list of the
19 providers and facilities within the claimant's geographic location, as
20 defined by regulation of the board. The claimant, in consultation with
21 the provider who requested the special diagnostic test, x-ray examina-
22 tion, magnetic resonance imaging or other radiological test or exam,
23 will determine the provider or facility from within the network which
24 will perform such diagnostic test, x-ray examination, magnetic resonance
25 imaging or other radiological examination or test.

26 § 3. This act shall take effect immediately.