

STATE OF NEW YORK

3381

2021-2022 Regular Sessions

IN ASSEMBLY

January 26, 2021

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

AN ACT to amend the workers' compensation law, in relation to the establishment of a fee schedule covering the costs of ambulance services provided to injured employees

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

1 Section 1. Subdivision (a) of section 13 of the workers' compensation
2 law, as amended by chapter 6 of the laws of 2007, the opening paragraph
3 as amended by chapter 23 of the laws of 2016, is amended to read as
4 follows:

5 (a) The employer shall promptly provide for an injured employee such
6 medical, dental, surgical, optometric or other attendance or treatment,
7 nurse and hospital service, medicine, optometric services, ambulance
8 services, crutches, eye-glasses, false teeth, artificial eyes, orthot-
9 ics, prosthetic devices, functional assistive and adaptive devices and
10 apparatus for such period as the nature of the injury or the process of
11 recovery may require. The employer shall be liable for the payment of
12 the expenses of medical, dental, surgical, optometric or other attend-
13 ance or treatment, nurse and hospital service, medicine, optometric
14 services, ambulance services, crutches, eye-glasses, false teeth, arti-
15 ficial eyes, orthotics, prosthetic devices, functional assistive and
16 adaptive devices and apparatus, as well as artificial members of the
17 body or other devices or appliances necessary in the first instance to
18 replace, support or relieve a portion or part of the body resulting from
19 and necessitated by the injury of an employee, for such period as the
20 nature of the injury or the process of recovery may require, and the
21 employer shall also be liable for replacements or repairs of such arti-
22 ficial members of the body or such other devices, eye-glasses, false
23 teeth, artificial eyes, orthotics, prosthetic devices, functional assis-
24 tive and adaptive devices or appliances necessitated by ordinary wear or

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

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1 loss or damage to a prosthesis, with or without bodily injury to the
2 employee. Damage to or loss of a prosthetic device shall be deemed an
3 injury except that no disability benefits shall be payable with respect
4 to such injury under section fifteen of this article. Such a replacement
5 or repair of artificial members of the body or such other devices, eye-
6 glasses, false teeth, artificial eyes, orthotics, prosthetic devices,
7 functional assistive and adaptive devices or appliances or the providing
8 of medical treatment and care as defined herein shall not constitute the
9 payment of compensation under section twenty-five-a of this article. All
10 fees and other charges for such treatment and services shall be limited
11 to such charges as prevail in the same community for similar treatment
12 of injured persons of a like standard of living.

13 The chair shall prepare and establish a schedule for the state, or
14 schedules limited to defined localities, of charges and fees for such
15 medical treatment and care, and including all medical, dental, surgical,
16 optometric or other attendance or treatment, nurse and hospital service,
17 medicine, optometric services, crutches, eye-glasses, false teeth, arti-
18 ficial eyes, orthotics, prosthetic devices, functional assistive and
19 adaptive devices and apparatus and ambulance services which shall be
20 applicable to fees for all such services except air transportation by an
21 air carrier to the extent preempted by federal law in accordance with

22 and to be subject to change pursuant to rules promulgated by the chair.
23 Before preparing such schedule for the state or schedules for limited
24 localities the chair shall request the president of the medical society
25 of the state of New York and the president of the New York state osteo-
26 pathic medical society to submit to him or her a report on the amount of
27 remuneration deemed by such society to be fair and adequate for the
28 types of medical care to be rendered under this chapter, but consider-
29 ation shall be given to the view of other interested parties. In the
30 case of physical therapy fees schedules the chair shall request the
31 president of a recognized professional association representing physical
32 therapists in the state of New York to submit to him or her a report on
33 the amount of remuneration deemed by such association to be fair and
34 reasonable for the type of physical therapy services rendered under this
35 chapter, but consideration shall be given to the views of other inter-
36 ested parties. The chair shall also prepare and establish a schedule
37 for the state, or schedules limited to defined localities, of charges
38 and fees for outpatient hospital services not covered under the medical
39 fee schedule previously referred to in this subdivision, to be deter-
40 mined in accordance with and to be subject to change pursuant to rules
41 promulgated by the chair. Before preparing such schedule for the state
42 or schedules for limited localities the chair shall request the presi-
43 dent of the hospital association of New York state to submit to him or
44 her a report on the amount of remuneration deemed by such association to
45 be fair and adequate for the types of hospital outpatient care to be
46 rendered under this chapter, but consideration shall be given to the
47 views of other interested parties. In the case of occupational therapy
48 fees schedules the chair shall request the president of a recognized
49 professional association representing occupational therapists in the
50 state of New York to submit to him or her a report on the amount of
51 remuneration deemed by such association to be fair and reasonable for
52 the type of occupational therapy services rendered under this chapter,
53 but consideration shall be given to the views of other interested
54 parties. The amounts payable by the employer for such treatment and
55 services shall be the fees and charges established by such schedule.
56 Nothing in this schedule, however, shall prevent voluntary payment of

1 amounts higher or lower than the fees and charges fixed therein, but no
2 physician rendering medical treatment or care, and no physical or occu-
3 pational therapist rendering their respective physical or occupational
4 therapy services may receive payment in any higher amount unless such
5 increased amount has been authorized by the employer, or by decision as
6 provided in section thirteen-g of this article. Nothing in this section
7 shall be construed as preventing the employment of a duly authorized
8 physician on a salary basis by an authorized compensation medical bureau
9 or laboratory.

10 § 2. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law.