

3716

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. LENTOL -- Multi-Sponsored by -- M. of A. LIFTON
-- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to chiropractic care

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

1 Section 1. Legislative intent. The legislature recognizes that multi-
2 ple health professionals are trained and licensed to diagnose and treat
3 the same or similar conditions through the use of modalities, therapies,
4 treatments, services and philosophies that vary from profession to
5 profession. It is the specific intent of this legislature to assure that
6 workers' compensation policies, plans and contracts that provide cover-
7 age for the diagnosis and treatment of conditions, complaints, ailments,
8 disorders or injuries, that may be diagnosed and treated by a doctor of
9 chiropractic, must provide equivalent access, coverage and fees for the
10 diagnosis and treatment of those conditions, complaints or injuries by a
11 duly licensed doctor of chiropractic, within the lawful scope of chirop-
12 ractic practice even if different terminology, philosophy, services,
13 treatments or modalities are used by the various health professions; and
14 such equivalent coverage shall not be abridged by any regulation.
15 S 2. Subdivision 2 of section 13-1 of the workers' compensation law,
16 as amended by chapter 473 of the laws of 2000, is amended to read as
17 follows:
18 2. (A) An employee injured under circumstances which make such injury
19 compensable under this article, when care is required for an injury
20 which consists solely of a condition which may lawfully be treated by a
21 chiropractor as defined in section sixty-five hundred fifty-one of the
22 education law may select to treat him or her, any duly registered and
23 licensed chiropractor of the state of New York, authorized by the chair
24 to render chiropractic care as hereinafter provided. If the injury or
25 condition is one which is outside the limits prescribed by the education

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

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1 law for chiropractic care and treatment, the said chiropractor must so
2 advise the said injured employee and instruct him or her to consult a
3 physician of said employee's choice for appropriate care and treatment.
4 Such physician shall thenceforth have supervision of the treatment of
5 said condition including the future treatment to be administered to the
6 patient by the chiropractor. A chiropractor licensed and registered to
7 practice chiropractic in the state of New York, who is desirous of being
8 authorized to render chiropractic care under this section and/or to
9 conduct independent medical examinations in accordance with paragraph
10 (b) of subdivision three of this section shall file an application for
11 authorization under this section with the chiropractic practice commit-
12 tee. In such application he or she shall agree to refrain from subse-
13 quently treating for remuneration, as a private patient, any person
14 seeking chiropractic treatment, or submitting to an independent medical
15 examination, in connection with, or as a result of, any injury compensa-
16 ble under this chapter, if he or she has been removed from the list of
17 chiropractors authorized to render chiropractic care or to conduct inde-
18 pendent medical examinations under this chapter, or if the person seek-
19 ing such treatment has been transferred from his or her care in accord-
20 ance with the provisions of this section. This agreement shall run to
21 the benefit of the injured person so treated, or examined, and shall be
22 available to him or her as a defense in any action by such chiropractor
23 for payment rendered by a chiropractor after he or she has been removed
24 from the list of chiropractors authorized to render chiropractic care or
25 to conduct independent medical examinations under this section, or after
26 the injured person was transferred from his or her care in accordance
27 with the provisions of this section. The chiropractic practice committee
28 if it deems such licensed chiropractor duly qualified shall recommend to
29 the chair that such be authorized to render chiropractic care and/or to
30 conduct independent medical examinations under this section. Such recom-
31 mendations shall be advisory to the chair only and shall not be binding
32 or conclusive upon him or her. The chair shall prepare and establish a
33 schedule for the state, or schedules limited to defined localities of
34 charges and fees for chiropractic treatment and care, to be determined
35 in accordance with and to be subject to change pursuant to rules promul-
36 gated by the chair. THE CHIROPRACTIC FEE SCHEDULE PREPARED AND ESTAB-
37 LISHED BY THE CHAIR SHALL PROVIDE FOR THE PAYMENT OF REMUNERATION WHICH
38 IS EQUIVALENT TO THAT APPLICABLE TO CARE OR TREATMENT PROVIDED BY PHYSI-
39 CIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR
40 CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFER-
41 ING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, TREATMENT OR
42 SERVICE. Before preparing such schedule for the state or schedules for
43 limited localities the chair shall request the chiropractic practice
44 committee to submit to him or her a report on the amount of remuneration
45 deemed by such committee to be fair and adequate for the types of
46 chiropractic care to be rendered under this chapter, but consideration
47 shall be given to the view of other interested parties, the amounts
48 payable by the employer for such treatment and services shall be the
49 fees and charges established by such schedule. CHIROPRACTIC CARE AND
50 TREATMENT MAY BE SUBJECT TO REASONABLE UTILIZATION REVIEW, PROVIDED THAT
51 ANY SUCH REVIEW: (I) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE,
52 AND (II) SHALL BE NO MORE RESTRICTIVE THAN THAT APPLICABLE TO CARE OR
53 TREATMENT PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGE-
54 MENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES, COMPLAINTS, DISORDERS
55 OR AILMENTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE
56 CONDITION, INJURY, TREATMENT OR SERVICE. NOTHING IN THIS SUBDIVISION

1 SHALL BE CONSTRUED AS IMPEDING OR PREVENTING EITHER THE PROVISION OR
2 COVERAGE OF CHIROPRACTIC CARE AND TREATMENT BY DULY LICENSED DOCTORS OF
3 CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF CHIROPRACTIC PRACTICE, IN
4 HOSPITAL FACILITIES ON STAFF OR EMPLOYEE BASIS.

5 (B) EVERY POLICY WHICH INCLUDES COVERAGE FOR PHYSICIAN SERVICES IN A
6 PHYSICIAN'S OFFICE, OTHER THAN A POLICY THAT PROVIDES MANAGED CARE
7 COVERAGE, SHALL PROVIDE COVERAGE FOR CARE PROVIDED IN THE PRACTICE OF
8 CHIROPRACTIC, AS DEFINED IN SECTION SIXTY-FIVE HUNDRED FIFTY-ONE OF THE
9 EDUCATION LAW, PROVIDED BY A DOCTOR OF CHIROPRACTIC LICENSED PURSUANT TO
10 ARTICLE ONE HUNDRED THIRTY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH
11 THE DETECTION OR CORRECTION BY MANUAL OR MECHANICAL MEANS OF STRUCTURAL
12 IMBALANCE, DISTORTION OR SUBLUXATION IN THE HUMAN BODY FOR THE PURPOSE
13 OF REMOVING NERVE INTERFERENCE, AND THE EFFECTS THEREOF, WHERE SUCH
14 INTERFERENCE IS THE RESULT OF OR RELATED TO DISTORTION, MISALIGNMENT OR
15 SUBLUXATION OF OR IN THE VERTEBRAL COLUMN. CHIROPRACTIC CARE AND
16 SERVICES MAY BE SUBJECT TO REASONABLE FEE SCHEDULES AND REASONABLE
17 UTILIZATION REVIEW, PROVIDED THAT ANY SUCH SCHEDULES AND REVIEW: (I)
18 SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE, AND (II) INDIVIDUALLY
19 AND COLLECTIVELY SHALL BE NO MORE RESTRICTIVE THAN THOSE APPLICABLE
20 UNDER THE SAME POLICY TO CARE OR SERVICES PROVIDED BY PHYSICIANS IN THE
21 DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS,
22 INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFERING NOMENCLA-
23 TURE IS USED TO DESCRIBE THE CONDITION, INJURY, COMPLAINT, TREATMENT OR
24 SERVICE. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS IMPEDING OR
25 PREVENTING EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND
26 SERVICES BY DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL
27 SCOPE OF CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON A STAFF OR
28 EMPLOYEE BASIS.

29 (C) THE COVERAGE REQUIRED BY THIS SUBDIVISION SHALL NOT BE ABRIDGED BY
30 ANY REGULATION PROMULGATED BY THE CHAIR, THE BOARD OR THE SUPERINTENDENT
31 OF INSURANCE.

32 S 3. The workers' compensation law is amended by adding a new section
33 356 to read as follows:

34 S 356. PREFERRED PROVIDER ORGANIZATIONS; CHIROPRACTIC TREATMENT. 1.
35 EACH PREFERRED PROVIDER ORGANIZATION SHALL PROVIDE COVERAGE FOR CARE AND
36 TREATMENT PROVIDED IN THE COURSE OF THE PRACTICE OF CHIROPRACTIC, AS
37 DEFINED IN SECTION SIXTY-FIVE HUNDRED FIFTY-ONE OF THE EDUCATION LAW,
38 PROVIDED BY A DOCTOR OF CHIROPRACTIC LICENSED PURSUANT TO ARTICLE ONE
39 HUNDRED THIRTY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH THE
40 DETECTION OR CORRECTION BY MANUAL OR MECHANICAL MEANS OF STRUCTURAL
41 IMBALANCE, DISTORTION OR SUBLUXATION IN THE HUMAN BODY FOR THE PURPOSE
42 OF REMOVING NERVE INTERFERENCE, AND THE EFFECTS THEREOF, WHERE SUCH
43 INTERFERENCE IS THE RESULT OF OR RELATED TO DISTORTION, MISALIGNMENT OR
44 SUBLUXATION OF OR IN THE VERTEBRAL COLUMN. CHIROPRACTIC CARE AND TREAT-
45 MENT MAY BE SUBJECT TO REASONABLE FEE SCHEDULES, AND REASONABLE UTILIZA-
46 TION REVIEW, PROVIDED THAT ANY SUCH SCHEDULES AND REVIEW: (A) SHALL NOT
47 DISCRIMINATE AGAINST CHIROPRACTIC CARE; AND (B) INDIVIDUALLY AND COLLEC-
48 TIVELY SHALL BE NO MORE RESTRICTIVE THAN THOSE APPLICABLE WITHIN THE
49 PREFERRED PROVIDER ORGANIZATION TO CARE OR TREATMENT PROVIDED BY PHYSI-
50 CIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR
51 CONDITIONS, INJURIES OR COMPLAINTS, EVEN IF DIFFERING NOMENCLATURE IS
52 USED TO DESCRIBE THE CONDITION, INJURY, COMPLAINT, TREATMENT OR SERVICE.
53 NOTHING IN THIS SECTION SHALL BE CONSTRUED AS IMPEDING OR PREVENTING
54 EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND TREATMENT BY
55 DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF

1 CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON A STAFF OR EMPLOYEE
2 BASIS.

3 2. EACH PREFERRED PROVIDER ORGANIZATION SHALL INCLUDE A SUFFICIENT
4 NUMBER OF CHIROPRACTORS WITHIN EACH GEOGRAPHIC AREA TO ASSURE ACCESS TO
5 CHIROPRACTIC TREATMENT THAT IS EQUAL TO THAT AVAILABLE TO MEDICAL TREAT-
6 MENT WITHIN THE SAME PREFERRED PROVIDER ORGANIZATION.

7 3. AN EMPLOYEE MAY SEEK CHIROPRACTIC TREATMENT FROM OUTSIDE THE
8 PREFERRED PROVIDER ORGANIZATION THIRTY DAYS AFTER HIS OR HER VISIT TO A
9 PREFERRED PROVIDER ORGANIZATION PROVIDER. IN THE EVENT THAT SUCH EMPLOY-
10 EE SEEKS CHIROPRACTIC TREATMENT OUTSIDE THE PREFERRED PROVIDER ORGANIZA-
11 TION, THE EMPLOYER MAY REQUIRE A SECOND OPINION FROM A PROVIDER WITHIN
12 THE PREFERRED PROVIDER ORGANIZATION.

13 4. AN EMPLOYEE MAY SEEK A SECOND OPINION WITH RESPECT TO SUCH CHIROP-
14 RACTIC TREATMENT FROM ANOTHER PROVIDER WITHIN THE PREFERRED PROVIDER
15 ORGANIZATION AT ANY TIME.

16 5. THE COVERAGE REQUIRED BY THIS SECTION SHALL NOT BE ABRIDGED BY ANY
17 REGULATION PROMULGATED BY THE CHAIR OR THE BOARD.

18 S 4. This act shall take effect January 1, 2010 and shall apply to
19 policies and contracts issued, renewed, modified, altered or amended on
20 or after such effective date.