

4302

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. CANESTRARI, CYMBROWITZ -- Multi-Sponsored by --
M. of A. BENJAMIN, TITONE, WEINSTEIN -- read once and referred to the
Committee on Labor

AN ACT to amend the workers' compensation law, in relation to the estab-
lishment of rates of payment and delivery of health care services

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

1 Section 1. The closing paragraph of subdivision (a) of section 13 of
2 the workers' compensation law, as amended by chapter 6 of the laws of
3 2007, is amended to read as follows:
4 The chair shall ANNUALLY prepare and establish a schedule for the
5 state, or schedules limited to defined localities, of charges and fees
6 for such medical treatment and care, and including all medical, dental,
7 surgical, optometric or other attendance or treatment, nurse and hospi-
8 tal service, medicine, optometric services, crutches, eye-glasses, false
9 teeth, artificial eyes, orthotics, prosthetic devices, functional assis-
10 tive and adaptive devices and apparatus in accordance with and to be
11 subject to change pursuant to rules promulgated by the chair. Before
12 preparing such schedule for the state or schedules for limited locali-
13 ties the chair shall request the president of the medical society of the
14 state of New York and the president of the New York state osteopathic
15 medical society to submit to him or her a report on the amount of remun-
16 eration deemed by such society to be fair and adequate for the types of
17 medical care to be rendered under this chapter, but consideration shall
18 be given to the view of other interested parties. In the case of phys-
19 ical therapy fees schedules the chair shall request the president of [a
20 recognized professional association representing physical therapists in
21 the state of New York] THE NEW YORK PHYSICAL THERAPY ASSOCIATION to
22 submit to him or her a report on the amount of remuneration deemed by
23 such association to be fair and reasonable for the type of physical
24 therapy services rendered under this chapter, but consideration shall be

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

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1 given to the views of other interested parties. The chair shall also
2 prepare and establish a schedule for the state, or schedules limited to
3 defined localities, of charges and fees for outpatient hospital services
4 not covered under the medical fee schedule previously referred to in
5 this subdivision, to be determined in accordance with and to be subject
6 to change pursuant to rules promulgated by the chair. Before preparing
7 such schedule for the state or schedules for limited localities the
8 chair shall request the president of the hospital association of New
9 York state to submit to him or her a report on the amount of remunera-
10 tion deemed by such association to be fair and adequate for the types of
11 hospital outpatient care to be rendered under this chapter, but consid-
12 eration shall be given to the views of other interested parties. In the
13 case of occupational therapy fees schedules the chair shall request the
14 president of a recognized professional association representing occupa-
15 tional therapists in the state of New York to submit to him or her a
16 report on the amount of remuneration deemed by such association to be
17 fair and reasonable for the type of occupational therapy services
18 rendered under this chapter, but consideration shall be given to the
19 views of other interested parties. The amounts payable by the employer
20 for such treatment and services shall be the fees and charges estab-
21 lished by such schedule. Nothing in this schedule, however, shall
22 prevent voluntary payment of amounts higher or lower than the fees and
23 charges fixed therein, but no physician rendering medical treatment or
24 care, and no physical or occupational therapist rendering their respec-
25 tive physical or occupational therapy services may receive payment in
26 any higher amount unless such increased amount has been authorized by
27 the employer, or by decision as provided in section thirteen-g of this
28 article. Nothing in this section shall be construed as preventing the
29 employment of a duly authorized physician on a salary basis by an
30 authorized compensation medical bureau or laboratory.

31 S 2. Paragraph (d) of subdivision 1 of section 13-b of the workers'
32 compensation law, as amended by chapter 473 of the laws of 2000, is
33 amended to read as follows:

34 (d) Upon the referral which may be directive as to treatment of an
35 authorized physician physical therapy care may be rendered by a [duly
36 licensed] physical therapist PRACTITIONER DULY LICENSED OR CERTIFIED
37 PURSUANT TO ARTICLE ONE HUNDRED THIRTY-SIX OF THE EDUCATION LAW. AT THE
38 ELECTION OF AN EMPLOYER OR INSURANCE CARRIER, PHYSICAL THERAPY MAY BE
39 RENDERED WITHOUT A REFERRAL. Where physical therapy care is rendered
40 records of the patient's condition and progress, together with records
41 of instruction for treatment, if any, shall be maintained by the phys-
42 ical therapist and physician. Said records shall be submitted to the
43 chair on such forms and at such times as the chair may require.

44 S 3. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law.