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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. MORELLE, PHEFFER, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. GALEF, HOOPER, JACOBS, ORTIZ, PERRY, SCHIMMINGER -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to payment of medical expenses of claimants by their health insurance carrier

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

Section 1. Paragraph 1 of subdivision (d) of section 13 of the workers' compensation law, as amended by chapter 419 of the laws of 2000, is amended to read as follows:

(1) (I) PENDING THE OUTCOME OF A DETERMINATION AS TO THE COMPENSABILITY OF A CLAIM, AN INSURER OR HEALTH BENEFITS PLAN SHALL MAKE PAYMENTS FOR OR ON BEHALF OF THE INJURED EMPLOYEE IF SUCH PLAN WOULD OTHERWISE COVER SUCH MEDICAL AND/OR HOSPITAL SERVICES. In the event that an insurer or health benefits plan makes payments for medical and/or hospital services for or on behalf of an injured employee they shall be entitled to be reimbursed for such payments by the carrier or employer within the limits of the [medical and hospital] WORKERS' COMPENSATION fee schedules if the board determines that the claim is compensable.

(II) IN ORDER TO RECEIVE PAYMENT UNDER THE PROVISIONS OF THIS PARAGRAPH, THE PROVIDER OF MEDICAL OR HOSPITAL SERVICES MUST FILE THE BOARD'S ATTENDING DOCTOR'S REPORT (C-4 FORM) WITH THE INSURER OR HEALTH BENEFITS PLAN PROVIDER, THE WORKERS' COMPENSATION INSURER OR EMPLOYER, IF SELF INSURED, AND THE BOARD.

(III) For the purposes of this section, an insurer or health benefits plan includes a medical expense indemnity corporation, a health or hospital service corporation, a commercial insurance company licensed to write accident and health insurance in the state of New York, a health maintenance organization operating in accordance with article forty-three of the insurance law or article forty-four of the public health law, or a self-insured or self-funded health care benefits plan operated

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

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by, or on behalf of, any business, municipality or other entity (including an employee welfare fund as defined in article forty-four of the insurance law or any other union trust fund or union health benefits plan).

(IV) Notwithstanding any other provision of law, in no event shall the carrier or employer be required to reimburse the insurer or health benefits plan in an amount greater than the amount paid for medical and hospital services for or on behalf of the injured [employer] EMPLOYEE by such corporation or company PLUS INTEREST, WHICH SHALL ACCRUE FROM THE DATE PAYMENT IS MADE BY THE INSURER OR HEALTH BENEFITS PLAN; provided, however, if the carrier or employer does not reimburse the insurer or health benefits plan within thirty days after the board determines that the claim is compensable, the carrier or employer shall reimburse the insurer or health benefits plan at the amount the carrier or employer would be obligated to reimburse the hospital or other provider of medical services if the carrier or employer made payment directly to the provider of medical and/or hospital services pursuant to this chapter (or, in the case of inpatient hospital services, pursuant to paragraphs (b) and (b-1) of subdivision one of section twenty-eight hundred seven-c of the public health law) PLUS INTEREST, WHICH SHALL ACCRUE FROM THE DATE PAYMENT IS MADE BY THE INSURER OR HEALTH BENEFITS PLAN. Upon reimbursement to the insurer or health benefits plan pursuant to this subdivision, the carrier or employer shall be relieved of liability for the medical and/or hospital services for which payment has been made by the insurer or health benefits plan. FOR PURPOSES OF THIS PARAGRAPH, INTEREST SHALL MEAN SIMPLE INTEREST AT THE FEDERAL FUNDS MARKET RATE AT CLOSE ON THE DATE SUCH PAYMENT IS MADE BY THE INSURER OR HEALTH BENEFIT PLAN.

(V) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INJURED EMPLOYEE SHALL BE PROMPTLY REIMBURSED FOR ALL COSTS INCURRED PROVIDED THAT SUCH COSTS WOULD HAVE BEEN OTHERWISE REIMBURSABLE UNDER THIS CHAPTER BUT FOR THE FACT THAT THE CLAIM FOR BENEFITS WAS CONTROVERTED.

S 2. This act shall take effect immediately and shall apply to workers' compensation claims denied on or after such effective date.