

7356

2011-2012 Regular Sessions

I N A S S E M B L Y

May 2, 2011

Introduced by M. of A. CANESTRARI -- 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, *IN CONSULTATION WITH THE BOARD'S MEDICAL DIRECTOR*, shall  
5 BIENNIALY prepare and establish a schedule for the state, or schedules  
6 limited to defined localities, of charges and fees for such medical  
7 treatment and care, and including all medical, dental, surgical, optome-  
8 tric or other attendance or treatment, nurse and hospital service, medi-  
9 cine, optometric services, crutches, eye-glasses, false teeth, artifi-  
10 cial eyes, orthotics, prosthetic devices, functional assistive and  
11 adaptive devices and apparatus in accordance with and to be subject to  
12 change pursuant to rules promulgated by the chair. Before preparing such  
13 schedule for the state or schedules for limited localities the chair  
14 shall request the president of the medical society of the state of New  
15 York and the president of the New York state osteopathic medical society  
16 to submit to him or her a report on the amount of remuneration deemed by  
17 such society to be fair and adequate for the types of medical care to be  
18 rendered under this chapter, but consideration shall be given to the  
19 view of other interested parties. In the case of physical therapy fees  
20 schedules the chair shall request the president of [a recognized profes-  
21 sional association representing physical therapists in the state of New  
22 York] *THE NEW YORK PHYSICAL THERAPY ASSOCIATION* to submit to him or her  
23 a report on the amount of remuneration deemed by such association to be  
24 fair and reasonable for the type of physical therapy services rendered  
25 under this chapter, but consideration shall be given to the views of

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

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

31 S 2. Subdivision 2 of section 13-k of the workers' compensation law,  
32 as amended by chapter 473 of the laws of 2000, is amended to read as  
33 follows:

34 2. An employee injured under circumstances which make such injury  
35 compensable under this article, when care is required for an injury to  
36 the foot which injury or resultant condition therefrom may lawfully be  
37 treated by a duly registered and licensed podiatrist of the state of New  
38 York, may select to treat him or her any podiatrist authorized by the  
39 chair to render podiatry care, as hereinafter provided. If the injury or  
40 condition is one which is without the limits prescribed by the education  
41 law for podiatry care and treatment, or the injuries involved affect  
42 other parts of the body in addition to the foot, the said podiatrist  
43 must so advise the said injured employee and instruct him or her to  
44 consult a physician of said employee's choice for appropriate care and  
45 treatment. Such physician shall thenceforth have overall supervision of  
46 the treatment of said patient including the future treatment to be  
47 administered to the patient by the podiatrist. If for any reason during  
48 the period when podiatry treatment and care is required, the employee  
49 wishes to transfer his or her treatment and care to another authorized  
50 podiatrist he or she may do so, in accordance with rules prescribed by  
51 the chair, provided however that the employer shall be liable for the  
52 proper fees of the original podiatrist for the care and treatment he or  
53 she shall have rendered. A podiatrist licensed and registered to prac-  
54 tice podiatry in the state of New York who is desirous of being author-  
55 ized to render podiatry care under this section and/or to conduct inde-  
56 pendent medical examinations in accordance with paragraph (b) of

1 subdivision three of this section shall file an application for authori-  
2 zation under this section with the podiatry practice committee. In such  
3 application he or she shall agree to refrain from subsequently treating  
4 for remuneration, as a private patient, any person seeking podiatry  
5 treatment, or submitting to an independent medical examination, in  
6 connection with, or as a result of, any injury compensable under this  
7 chapter, if he or she has been removed from the list of podiatrists  
8 authorized to render podiatry care or to conduct independent medical  
9 examinations under this chapter, or if the person seeking such treatment  
10 has been transferred from his or her care in accordance with the  
11 provisions of this section. This agreement shall run to the benefit of  
12 the injured person so treated or examined, and shall be available to him  
13 or her as a defense in any action by such podiatrist for payment for  
14 treatment rendered by a podiatrist after he or she has been removed from  
15 the list of podiatrists authorized to render podiatry care or to conduct  
16 independent medical examinations under this section, or after the  
17 injured person was transferred from his or her care in accordance with  
18 the provisions of this section. The podiatry practice committee if it  
19 deems such licensed podiatrist duly qualified shall recommend to the  
20 chair that such podiatrist be authorized to render podiatry care and/or  
21 to conduct independent medical examinations under this section. Such  
22 recommendation shall be advisory to the chair only and shall not be  
23 binding or conclusive upon him or her. The chair, IN CONSULTATION WITH  
24 THE BOARD'S MEDICAL DIRECTOR, shall BIENNIALY prepare and establish a  
25 schedule for the state, or schedules limited to defined localities, of  
26 charges and fees for podiatry treatment and care, to be determined in  
27 accordance with and to be subject to change pursuant to rules promulgat-  
28 ed by the chair. Before preparing such schedule for the state or sched-  
29 ules for limited localities the chair shall request the podiatry prac-  
30 tice committee to submit to him or her a report on the amount of  
31 remuneration deemed by such committee to be fair and adequate for the  
32 types of podiatry care to be rendered under this chapter, but consider-  
33 ation shall be given to the view of other interested parties. The  
34 amounts payable by the employer for such treatment and services shall be  
35 the fees and charges established by such schedule.

36 S 3. Subdivision 2 of section 13-1 of the workers' compensation law,  
37 as amended by chapter 473 of the laws of 2000, is amended to read as  
38 follows:

39 2. An employee injured under circumstances which make such injury  
40 compensable under this article, when care is required for an injury  
41 which consists solely of a condition which may lawfully be treated by a  
42 chiropractor as defined in section sixty-five hundred fifty-one of the  
43 education law may select to treat him or her, any duly registered and  
44 licensed chiropractor of the state of New York, authorized by the chair  
45 to render chiropractic care as hereinafter provided. If the injury or  
46 condition is one which is outside the limits prescribed by the education  
47 law for chiropractic care and treatment, the said chiropractor must so  
48 advise the said injured employee and instruct him or her to consult a  
49 physician of said employee's choice for appropriate care and treatment.  
50 Such physician shall thenceforth have supervision of the treatment of  
51 said condition including the future treatment to be administered to the  
52 patient by the chiropractor. A chiropractor licensed and registered to  
53 practice chiropractic in the state of New York, who is desirous of being  
54 authorized to render chiropractic care under this section and/or to  
55 conduct independent medical examinations in accordance with paragraph  
56 (b) of subdivision three of this section shall file an application for

1 authorization under this section with the chiropractic practice commit-  
2 tee. In such application he or she shall agree to refrain from subse-  
3 quently treating for remuneration, as a private patient, any person  
4 seeking chiropractic treatment, or submitting to an independent medical  
5 examination, in connection with, or as a result of, any injury compensa-  
6 ble under this chapter, if he or she has been removed from the list of  
7 chiropractors authorized to render chiropractic care or to conduct inde-  
8 pendent medical examinations under this chapter, or if the person seek-  
9 ing such treatment has been transferred from his or her care in accord-  
10 ance with the provisions of this section. This agreement shall run to  
11 the benefit of the injured person so treated, or examined, and shall be  
12 available to him or her as a defense in any action by such chiropractor  
13 for payment rendered by a chiropractor after he or she has been removed  
14 from the list of chiropractors authorized to render chiropractic care or  
15 to conduct independent medical examinations under this section, or after  
16 the injured person was transferred from his or her care in accordance  
17 with the provisions of this section. The chiropractic practice committee  
18 if it deems such licensed chiropractor duly qualified shall recommend to  
19 the chair that such be authorized to render chiropractic care and/or to  
20 conduct independent medical examinations under this section. Such recom-  
21 mendations shall be advisory to the chair only and shall not be binding  
22 or conclusive upon him or her. The chair, IN CONSULTATION WITH THE  
23 BOARD'S MEDICAL DIRECTOR, shall BIENNIALY prepare and establish a sche-  
24 dule for the state, or schedules limited to defined localities of charg-  
25 es and fees for chiropractic treatment and care, to be determined in  
26 accordance with and to be subject to change pursuant to rules promulgat-  
27 ed by the chair. Before preparing such schedule for the state or sched-  
28 ules for limited localities the chair shall request the chiropractic  
29 practice committee to submit to him or her a report on the amount of  
30 remuneration deemed by such committee to be fair and adequate for the  
31 types of chiropractic care to be rendered under this chapter, but  
32 consideration shall be given to the view of other interested parties,  
33 the amounts payable by the employer for such treatment and services  
34 shall be the fees and charges established by such schedule.

35 S 4. Subdivision 3 of section 13-m of the workers' compensation law,  
36 as amended by chapter 473 of the laws of 2000, is amended to read as  
37 follows:

38 3. A psychologist, licensed and registered to practice psychology in  
39 the state of New York, who is desirous of being authorized to render  
40 psychological care under this section and/or to conduct independent  
41 medical examinations in accordance with paragraph (b) of subdivision  
42 four of this section shall file an application for authorization under  
43 this section with the psychology practice committee. The applicant shall  
44 agree to refrain from subsequently treating for remuneration, as a  
45 private patient, any person seeking psychological treatment, or submit-  
46 ting to an independent medical examination, in connection with, or as a  
47 result of, any injury compensable under this chapter, if he or she has  
48 been removed from the list of psychologists authorized to render psycho-  
49 logical care under this chapter. This agreement shall run to the benefit  
50 of the injured person so treated, and shall be available as a defense in  
51 any action by such psychologist for payment for treatment rendered by  
52 such psychologist after being removed from the list of psychologists  
53 authorized to render psychological care or to conduct independent  
54 medical examinations under this section. The psychology practice commit-  
55 tee if it deems such licensed psychologist duly qualified shall recom-  
56 mend to the chair that such person be authorized to render psychological

1 care and/or to conduct independent medical examinations under this  
2 section. Such recommendations shall be only advisory to the chair and  
3 shall not be binding or conclusive. The chair, IN CONSULTATION WITH THE  
4 BOARD'S MEDICAL DIRECTOR, shall BIENNIALY prepare and establish a sche-  
5 dule for the state or schedules limited to defined localities of charges  
6 and fees for psychological treatment and care, to be determined in  
7 accordance with and be subject to change pursuant to rules promulgated  
8 by the chair. Before preparing such schedule for the state or schedules  
9 for limited localities the chair shall request the psychology practice  
10 committee to submit to such chair a report on the amount of remuneration  
11 deemed by such committee to be fair and adequate for the types of  
12 psychological care to be rendered under this chapter, but consideration  
13 shall be given to the view of other interested parties. The amounts  
14 payable by the employer for such treatment and services shall be the  
15 fees and charges established by such schedule.

16 S 5. Notwithstanding the provisions of section one of this act or of  
17 any other law, rule or regulation to the contrary, a revision to the fee  
18 schedules established pursuant to sections 13, 13-k, 13-l and 13-m of  
19 the workers' compensation law existing as of the effective date of this  
20 act shall be published by the chair of the workers' compensation board  
21 on behalf of such board no later than one year following the effective  
22 date of this act. Subsequent biennial schedules shall be published in  
23 final form on January fifteenth every other year. Nothing in this  
24 section shall limit the authority of the chair of the workers' compen-  
25 sation board to make adjustments in the fee schedule other than at the  
26 biennial publication.

27 S 6. This act shall take effect immediately.