

4332--B

2015-2016 Regular Sessions

I N   S E N A T E

March 16, 2015

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law, in relation to requiring the medical advisory committee to establish the use of comprehensive nationally recognized treatment guidelines for all body parts or conditions which have no recommendations by such advisory committee

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

1     Section 1. Subdivision 5 of section 13-a of the workers' compensation  
2     law, as amended by chapter 6 of the laws of 2007 and as further amended  
3     by section 104 of part A of chapter 62 of the laws of 2011, is amended  
4     to read as follows:  
5     (5) (A) No claim for specialist consultations, surgical operations,  
6     physiotherapeutic or occupational therapy procedures, x-ray examinations  
7     or special diagnostic laboratory tests costing more than one thousand  
8     dollars shall be valid and enforceable, as against such employer, unless  
9     such special services shall have been authorized by the employer or by  
10    the board, or unless such authorization has been unreasonably withheld,  
11    or withheld for a period of more than thirty calendar days from receipt  
12    of a request for authorization, or unless such special services are  
13    required in an emergency, provided, however, that the basis for a denial  
14    of such authorization by the employer must be based on a conflicting  
15    second opinion rendered by a physician authorized by the board. The  
16    board, with the approval of the superintendent of financial services,  
17    shall issue and maintain a list of pre-authorized procedures under this  
18    section. THE LIST OF PRE-AUTHORIZED PROCEDURES, INCLUDING MEDICAL TREAT-  
19    MENT AUTHORIZED BY ANY GUIDELINES PROMULGATED OR ADOPTED BY THE BOARD,

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

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1 SHALL NOT BE UTILIZED TO DENY OR PRE-DETERMINE THE NEED FOR MEDICAL  
2 SERVICES THAT VARY FROM SUCH LIST OR THE GUIDELINES.

3 (B)(I) THE MEDICAL ADVISORY COMMITTEE SHALL RECOMMEND AND THE BOARD  
4 SHALL ADOPT THE TEMPORARY USE OF COMPREHENSIVE, EVIDENCE BASED,  
5 NATIONALLY RECOGNIZED TREATMENT GUIDELINES FOR BODY PARTS OR CONDITIONS  
6 WHERE NO AGREED UPON WORKERS' COMPENSATION TREATMENT GUIDELINE EXISTS.  
7 UNTIL SUCH TIME THAT THE MEDICAL ADVISORY COMMITTEE MAKES A RECOMMENDA-  
8 TION FOR A BODY PART OR A PARTICULAR CONDITION AND THE BOARD ADOPTS  
9 GUIDELINES FOR SAID BODY PART OR CONDITION, A QUALIFYING, EVIDENCE  
10 BASED, NATIONALLY RECOGNIZED TREATMENT GUIDELINE SHALL BE USED FOR  
11 TREATMENT COVERED UNDER WORKERS' COMPENSATION IN NEW YORK STATE.

12 (II) THE MEDICAL ADVISORY COMMITTEE SHALL HAVE ONE HUNDRED EIGHTY DAYS  
13 TO ISSUE A WRITTEN RECOMMENDATION INDICATING THE SELECTION OF A QUALIFY-  
14 ING GUIDELINE TO THE BOARD FOR IMMEDIATE ADOPTION BASED UPON REVIEW OF  
15 NATIONALLY RECOGNIZED, EVIDENCE-BASED MEDICAL TREATMENT GUIDELINES THAT  
16 MEET THE FOLLOWING CRITERIA: (A) ARE UPDATED AT LEAST EVERY TWO YEARS TO  
17 REFLECT THE BEST SCIENCE; AND (B) ARE COMPREHENSIVE IN NATURE, COVERING  
18 AT LEAST NINETY-FIVE PERCENT OF CONDITIONS AND BODY PARTS COVERED BY  
19 WORKERS' COMPENSATION. THE QUALIFYING NATIONALLY RECOGNIZED GUIDELINES  
20 SHALL BE TEMPORARY AND IN EFFECT FOR A PERIOD OF TWO YEARS OR UNTIL THE  
21 ADVISORY COMMITTEE HAS MADE A RECOMMENDATION AND THE BOARD HAS ADOPTED A  
22 GUIDELINE FOR TREATMENT OF A BODY PART OR CONDITION THAT HAS NO RECOM-  
23 MENDATION. IF, AFTER THE FIRST TWO YEARS AND EVERY TWO YEARS THEREAFT-  
24 ER, THE ADVISORY COMMITTEE HAS NOT MADE A RECOMMENDATION AND THE BOARD  
25 HAS NOT ADOPTED A GUIDELINE ON A PARTICULAR BODY PART OR CONDITION THEN  
26 THE ADVISORY COMMITTEE SHALL REVIEW THE QUALIFYING NATIONALLY RECOGNIZED  
27 GUIDELINES AND THE BOARD SHALL ADOPT A TWO YEAR EXTENSION OF SUCH GUIDE-  
28 LINES BY A TWO-THIRDS MAJORITY VOTE OF THE MEDICAL ADVISORY COMMITTEE OR  
29 ESTABLISH A NEW QUALIFYING TREATMENT GUIDELINE.

30 S 2. This act shall take effect immediately.