

4332

2015-2016 Regular Sessions

I N S E N A T E

March 16, 2015

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

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.
19 (B)(I) THE MEDICAL ADVISORY COMMITTEE SHALL RECOMMEND AND THE BOARD
20 SHALL ADOPT THE TEMPORARY USE OF COMPREHENSIVE NATIONALLY RECOGNIZED
21 TREATMENT GUIDELINES FOR BODY PARTS OR CONDITIONS WHERE NO AGREED UPON
22 WORKERS' COMPENSATION TREATMENT GUIDELINE EXISTS. UNTIL SUCH TIME THAT
23 THE MEDICAL ADVISORY COMMITTEE MAKES A RECOMMENDATION FOR A BODY PART OR

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

LBD05994-01-5

1 A PARTICULAR CONDITION AND THE BOARD ADOPTS GUIDELINES FOR SAID BODY
2 PART OR CONDITION, A QUALIFYING NATIONALLY RECOGNIZED TREATMENT GUIDE-
3 LINE SHALL BE USED FOR TREATMENT COVERED UNDER WORKERS' COMPENSATION IN
4 NEW YORK STATE.

5 (II) THE MEDICAL ADVISORY COMMITTEE SHALL HAVE ONE HUNDRED EIGHTY DAYS
6 TO ISSUE A WRITTEN RECOMMENDATION INDICATING THE SELECTION OF A QUALIFY-
7 ING GUIDELINE TO THE BOARD FOR IMMEDIATE ADOPTION BASED UPON REVIEW OF
8 NATIONALLY RECOGNIZED, EVIDENCE-BASED MEDICAL TREATMENT GUIDELINES THAT
9 MEET THE FOLLOWING CRITERIA: (A) ARE UPDATED AT LEAST ANNUALLY TO
10 REFLECT THE BEST SCIENCE; AND (B) THE CURRENT VERSION OF WHICH HAS BEEN
11 ADOPTED VERBATIM BY LEGISLATION, REGULATION OR RULE IN AT LEAST FIVE
12 STATES FOR TREATMENT COVERED UNDER WORKERS' COMPENSATION. THE QUALIFYING
13 NATIONALLY RECOGNIZED GUIDELINES SHALL BE TEMPORARY AND IN EFFECT FOR A
14 PERIOD OF TWO YEARS OR UNTIL THE ADVISORY COMMITTEE HAS MADE A RECOMMEN-
15 DATION AND THE BOARD HAS ADOPTED A GUIDELINE FOR TREATMENT OF A BODY
16 PART OR CONDITION. IF, AFTER THE FIRST TWO YEARS AND EVERY TWO YEARS
17 THEREAFTER, THE ADVISORY COMMITTEE HAS NOT MADE A RECOMMENDATION AND THE
18 BOARD HAS NOT ADOPTED A GUIDELINE ON A PARTICULAR BODY PART OR CONDITION
19 THEN THE ADVISORY COMMITTEE SHALL REVIEW THE QUALIFYING NATIONALLY
20 RECOGNIZED GUIDELINES AND THE BOARD SHALL ADOPT A TWO YEAR EXTENSION OF
21 SUCH GUIDELINES BY A TWO-THIRDS MAJORITY VOTE OF THE MEDICAL ADVISORY
22 COMMITTEE OR ESTABLISH A NEW QUALIFYING TREATMENT GUIDELINE.

23 S 2. This act shall take effect immediately.