

5067--B

2015-2016 Regular Sessions

I N S E N A T E

April 29, 2015

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- 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 authorizing certain care and treatment to injured employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 prepare and establish a schedule for the state, or
5 schedules limited to defined localities, of charges and fees for such
6 medical treatment and care, and including all medical, dental, surgical,
7 optometric or other attendance or treatment, nurse and hospital service,
8 medicine, optometric services, crutches, eye-glasses, false teeth, arti-
9 ficial eyes, orthotics, prosthetic devices, functional assistive and
10 adaptive devices and apparatus in accordance with and to be subject to
11 change pursuant to rules promulgated by the chair. Before preparing such
12 schedule for the state or schedules for limited localities the chair
13 shall request the president of the medical society of the state of New
14 York and the president of the New York state osteopathic medical society
15 to submit to him or her a report on the amount of remuneration deemed by
16 such society to be fair and adequate for the types of medical care to be
17 rendered under this chapter, but consideration shall be given to the
18 view of other interested parties. In the case of physical therapy fees
19 schedules the chair shall request the president of a recognized profes-
20 sional association representing physical therapists in the state of New
21 York to submit to him or her a report on the amount of remuneration

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

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1 deemed by such association to be fair and reasonable for the type of
2 physical therapy services rendered under this chapter, but consideration
3 shall be given to the views of other interested parties. The chair
4 shall also prepare and establish a schedule for the state, or schedules
5 limited to defined localities, of charges and fees for outpatient hospi-
6 tal services not covered under the medical fee schedule previously
7 referred to in this subdivision, to be determined in accordance with and
8 to be subject to change pursuant to rules promulgated by the chair.
9 Before preparing such schedule for the state or schedules for limited
10 localities the chair shall request the president of the hospital associ-
11 ation of New York state to submit to him or her a report on the amount
12 of remuneration deemed by such association to be fair and adequate for
13 the types of hospital outpatient care to be rendered under this chapter,
14 but consideration shall be given to the views of other interested
15 parties. In the case of occupational therapy fees schedules the chair
16 shall request the president of a recognized professional association
17 representing occupational therapists in the state of New York to submit
18 to him or her a report on the amount of remuneration deemed by such
19 association to be fair and reasonable for the type of occupational ther-
20 apy services rendered under this chapter, but consideration shall be
21 given to the views of other interested parties. IN THE CASE OF MASSAGE
22 THERAPY FEE SCHEDULES THE CHAIR SHALL REQUEST THE PRESIDENT OF A RECOG-
23 NIZED PROFESSIONAL ASSOCIATION REPRESENTING LICENSED MASSAGE THERAPISTS
24 IN THE STATE OF NEW YORK TO SUBMIT TO HIM OR HER A REPORT ON THE AMOUNT
25 OF REMUNERATION DEEMED BY SUCH ASSOCIATION TO BE FAIR AND REASONABLE FOR
26 THE TYPE OF OCCUPATIONAL THERAPY SERVICES RENDERED UNDER THIS CHAPTER,
27 BUT CONSIDERATION SHALL BE GIVEN TO THE VIEWS OF OTHER INTERESTED
28 PARTIES. The amounts payable by the employer for such treatment and
29 services shall be the fees and charges established by such schedule.
30 Nothing in this schedule, however, shall prevent voluntary payment of
31 amounts higher or lower than the fees and charges fixed therein, but no
32 physician rendering medical treatment or care, and no physical, LICENSED
33 MASSAGE or occupational therapist rendering their respective physical,
34 MASSAGE or occupational therapy services may receive payment in any
35 higher amount unless such increased amount has been authorized by the
36 employer, or by decision as provided in section thirteen-g of this arti-
37 cle. Nothing in this section shall be construed as preventing the
38 employment of a duly authorized physician on a salary basis by an
39 authorized compensation medical bureau or laboratory.

40 S 2. Subdivision 1 of section 13-b of the workers' compensation law is
41 amended by adding a new paragraph (g) to read as follows:

42 (G) UPON THE PRESCRIPTION OR REFERRAL OF AN AUTHORIZED PHYSICIAN,
43 MASSAGE THERAPY CARE MAY BE RENDERED BY A DULY LICENSED MASSAGE THERA-
44 PIST. WHERE MASSAGE THERAPY CARE IS RENDERED, RECORDS OF THE PATIENT'S
45 CONDITION AND PROGRESS, TOGETHER WITH RECORDS OF INSTRUCTION FOR TREAT-
46 MENT, IF ANY SHALL BE MAINTAINED BY THE MESSAGE THERAPIST AND PHYSICIAN.
47 SAID RECORDS SHALL BE SUBMITTED TO THE CHAIR ON FORMS AND AT SUCH TIMES
48 AS THE CHAIR MAY REQUIRE.

49 S 3. Subdivision 1 of section 13-g of the workers' compensation law,
50 as amended by chapter 674 of the laws of 1994, is amended to read as
51 follows:

52 (1) Within forty-five days after a bill has been rendered to the
53 employer by the hospital, physician or self-employed physical, LICENSED
54 MASSAGE or occupational therapist who has rendered treatment pursuant to
55 a referral from the injured employee's authorized physician or author-
56 ized podiatrist for treatment to the injured employee, such employer

1 must pay the bill or notify the hospital, physician or self-employed
2 physical, LICENSED MASSAGE or occupational therapist in writing that the
3 bill is not being paid and explain the reasons for non-payment. In the
4 event that the employer fails to make payment or notify the hospital,
5 physician or self-employed physical, LICENSED MASSAGE or occupational
6 therapist within such forty-five day period that payment is not being
7 made, the hospital, physician, self-employed physical therapist OR
8 SELF-EMPLOYED LICENSED MASSAGE THERAPIST or self-employed occupational
9 therapist may notify the chair in writing that the bill has not been
10 paid and request that the board make an award for payment of such bill.
11 The board or the chair may make an award not in excess of the estab-
12 lished fee schedules for any such bill or part thereof which remains
13 unpaid after said forty-five day period or thirty days after all other
14 questions duly and timely raised in accordance with the provisions of
15 this chapter, relating to the employer's liability for the payment of
16 such amount, shall have been finally determined adversely to the employ-
17 er, whichever is later, in accordance with rules promulgated by the
18 chair, and such award may be collected in like manner as an award of
19 compensation. The chair shall assess the sum of fifty dollars against
20 the employer for each such award made by the board, which sum shall be
21 paid into the state treasury.

22 In the event that the employer has provided an explanation in writing
23 why the bill has not been paid, in part or in full, within the aforesaid
24 time period, and the parties can not agree as to the value of medical
25 aid rendered under this chapter, such value shall be decided by arbi-
26 tration if requested by the hospital, physician or self-employed phys-
27 ical, LICENSED MASSAGE or occupational therapist, in accordance with the
28 provisions of subdivision two or subdivision three of this section, as
29 appropriate, and rules and regulations promulgated by the chair.

30 Where a physician, physical, LICENSED MASSAGE or occupational thera-
31 pist bill has been determined to be due and owing in accordance with the
32 provisions of this section the board shall include in the amount of the
33 award interest of not more than one and one-half per cent (1 1/2%) per
34 month payable to the physician, physical, LICENSED MASSAGE or occupa-
35 tional therapist, in accordance with the rules and regulations promul-
36 gated by the board. Interest shall be calculated from the forty-fifth
37 day after the bill was rendered or from the thirtieth day after all
38 other questions duly and timely raised in accordance with the provisions
39 of this chapter, relating to the employer's liability for the payment of
40 such amount, shall have been finally determined adversely to the employ-
41 er, whichever is later, in accordance with rules promulgated by the
42 chair.

43 S 4. This act shall take effect immediately.