STATE OF NEW YORK

6516

2019-2020 Regular Sessions

IN ASSEMBLY

March 8, 2019

Introduced by M. of A. MAGNARELLI -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to the establishment of rates of payment and delivery of health care services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The closing paragraph of subdivision (a) of section 13 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

The chair**, in consultation with the board's medical director,** shall **biennially** prepare and establish a schedule for the state, or schedules limited to defined localities, of charges and fees for such medical treatment and care, and including all medical, dental, surgical, optometric or other attendance or treatment, nurse and hospital service, medicine, optometric services, crutches, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices and apparatus in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the president of the medical society of the state of New York and the president of the New York state osteopathic medical society to submit to him or her a report on the amount of remuneration deemed by such society to be fair and adequate for the types of medical care to be rendered under this chapter, but consideration shall be given to the view of other interested parties. In the case of physical therapy fees schedules the chair shall request the president of [~~a recognized professional association representing physical therapists in the state of New York~~] **the New York physical therapy association** to submit to him or her a report on the amount of remuneration deemed by such association to be fair and reasonable for the type of physical therapy services rendered 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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other interested parties. The chair shall also prepare and establish a schedule for the state, or schedules limited to defined localities, of charges and fees for outpatient hospital services not covered under the medical fee schedule previously referred to in this subdivision, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the president of the hospital association of New York state to submit to him or her a report on the amount of remuneration deemed by such association to be fair and adequate for the types of hospital outpatient care to be rendered under this chapter, but consideration shall be given to the views of other interested parties. In the case of occupational therapy fees schedules the chair shall request the president of a recognized professional association representing occupational therapists in the state of New York to submit to him or her a report on the amount of remuneration deemed by such association to be fair and reasonable for the type of occupational therapy services rendered under this chapter, but consideration shall be given to the views of other interested parties. The amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule. Nothing in this schedule, however, shall prevent voluntary payment of amounts higher or lower than the fees and charges fixed therein, but no physician rendering medical treatment or care, and no physical or occupational therapist rendering their respective physical or occupational therapy services may receive payment in any higher amount unless such increased amount has been authorized by the employer, or by decision as provided in section thirteen-g of this article. Nothing in this section shall be construed as preventing the employment of a duly authorized physician on a salary basis by an authorized compensation medical bureau or laboratory.

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

2. An employee injured under circumstances which make such injury compensable under this article, when care is required for an injury to the foot which injury or resultant condition therefrom may lawfully be treated by a duly registered and licensed podiatrist of the state of New York, may select to treat him or her any podiatrist authorized by the chair to render podiatry care, as hereinafter provided. If the injury or condition is one which is without the limits prescribed by the education law for podiatry care and treatment, or the injuries involved affect other parts of the body in addition to the foot, the said podiatrist must so advise the said injured employee and instruct him or her to consult a physician of said employee's choice for appropriate care and treatment. Such physician shall thenceforth have overall supervision of the treatment of said patient including the future treatment to be administered to the patient by the podiatrist. If for any reason during the period when podiatry treatment and care is required, the employee wishes to transfer his or her treatment and care to another authorized podiatrist he or she may do so, in accordance with rules prescribed by the chair, provided however that the employer shall be liable for the proper fees of the original podiatrist for the care and treatment he or she shall have rendered. A podiatrist licensed and registered to practice podiatry in the state of New York who is desirous of being authorized to render podiatry care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of

subdivision three of this section shall file an application for authorization under this section with the podiatry practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking podiatry treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of podiatrists authorized to render podiatry care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated or examined, and shall be available to him or her as a defense in any action by such podiatrist for payment for treatment rendered by a podiatrist after he or she has been removed from the list of podiatrists authorized to render podiatry care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The podiatry practice committee if it deems such licensed podiatrist duly qualified shall recommend to the chair that such podiatrist be authorized to render podiatry care and/or to conduct independent medical examinations under this section. Such recommendation shall be advisory to the chair only and shall not be binding or conclusive upon him or her. The chair**, in consultation with the board's medical director,** shall **biennially** prepare and establish a schedule for the state, or schedules limited to defined localities, of charges and fees for podiatry treatment and care, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the podiatry practice committee to submit to him or her a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of podiatry care to be rendered under this chapter, but consideration shall be given to the view of other interested parties. The amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

§ 3. Subdivision 2 of section 13-l of the workers' compensation law, as amended by chapter 473 of the laws of 2000, is amended to read as follows:

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

authorization under this section with the chiropractic practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking chiropractic treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of chiropractors authorized to render chiropractic care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated, or examined, and shall be available to him or her as a defense in any action by such chiropractor for payment rendered by a chiropractor after he or she has been removed from the list of chiropractors authorized to render chiropractic care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The chiropractic practice committee if it deems such licensed chiropractor duly qualified shall recommend to the chair that such be authorized to render chiropractic care and/or to conduct independent medical examinations under this section. Such recommendations shall be advisory to the chair only and shall not be binding or conclusive upon him or her. The chair**, in consultation with the board's medical director,** shall **biennially** prepare and establish a schedule for the state, or schedules limited to defined localities of charges and fees for chiropractic treatment and care, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the chiropractic practice committee to submit to him or her a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of chiropractic care to be rendered under this chapter, but consideration shall be given to the view of other interested parties, the amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

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

3. A psychologist, licensed and registered to practice psychology in the state of New York, who is desirous of being authorized to render psychological care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision four of this section shall file an application for authorization under this section with the psychology practice committee. The applicant shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking psychological treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of psychologists authorized to render psychological care under this chapter. This agreement shall run to the benefit of the injured person so treated, and shall be available as a defense in any action by such psychologist for payment for treatment rendered by such psychologist after being removed from the list of psychologists authorized to render psychological care or to conduct independent medical examinations under this section. The psychology practice committee if it deems such licensed psychologist duly qualified shall recommend to the chair that such person be authorized to render psychological

care and/or to conduct independent medical examinations under this section. Such recommendations shall be only advisory to the chair and shall not be binding or conclusive. The chair**, in consultation with the board's medical director,** shall **biennially** prepare and establish a schedule for the state or schedules limited to defined localities of charges and fees for psychological treatment and care, to be determined in accordance with and be subject to change pursuant to rules promulgated by the chair. Before preparing such schedule for the state or schedules for limited localities the chair shall request the psychology practice committee to submit to such chair a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of psychological care to be rendered under this chapter, but consideration shall be given to the view of other interested parties. The amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule.

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

§ 6. This act shall take effect immediately.