

STATE OF NEW YORK

1307

2021-2022 Regular Sessions

IN ASSEMBLY

January 8, 2021

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 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 biennially 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.

LBD01799-01-1

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 § 2. Subdivision 2 of section 13-k of the workers' compensation law,
32 as amended by section 4 of part CC of chapter 55 of the laws of 2019, is
33 amended to read as 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 podiatric medical care, as hereinafter provided. If the
40 injury or condition is one which is without the limits prescribed by the
41 education law for podiatric medical care and treatment, or the injuries
42 involved affect other parts of the body in addition to the foot, the
43 said podiatrist must so advise the said injured employee and instruct
44 him or her to consult a physician of said employee's choice for appro-
45 priate care and treatment. Such physician shall thenceforth have overall
46 supervision of the treatment of said patient including the future treat-
47 ment to be administered to the patient by the podiatrist. If for any
48 reason during the period when podiatric medical treatment and care is
49 required, the employee wishes to transfer his or her treatment and care
50 to another authorized podiatrist he or she may do so, in accordance with
51 rules prescribed by the chair, provided however that the employer shall
52 be liable for the proper fees of the original podiatrist for the care
53 and treatment he or she shall have rendered. The chair, in consultation
54 with the board's medical director, shall biennially prepare and estab-
55 lish a schedule for the state, or schedules limited to defined locali-
56 ties, of charges and fees for podiatric medical treatment and care, to

1 be determined in accordance with and to be subject to change pursuant to
2 rules promulgated by the chair. Before preparing such schedule for the
3 state or schedules for limited localities the chair shall request the
4 podiatric medicine practice committee to submit to him or her a report
5 on the amount of remuneration deemed by such committee to be fair and
6 adequate for the types of podiatric medical care to be rendered under
7 this chapter, but consideration shall be given to the view of other
8 interested parties. The amounts payable by the employer for such treat-
9 ment and services shall be the fees and charges established by such
10 schedule.

11 § 3. Subdivision 2 of section 13-1 of the workers' compensation law,
12 as amended by section 5 of part CC of chapter 55 of the laws of 2019, is
13 amended to read as follows:

14 2. An employee injured under circumstances which make such injury
15 compensable under this article, when care is required for an injury
16 which consists solely of a condition which may lawfully be treated by a
17 chiropractor as defined in section sixty-five hundred fifty-one of the
18 education law may select to treat him or her, any duly registered and
19 licensed chiropractor of the state of New York, authorized by the chair
20 to render chiropractic care as hereinafter provided. If the injury or
21 condition is one which is outside the limits prescribed by the education
22 law for chiropractic care and treatment, the said chiropractor must so
23 advise the said injured employee and instruct him or her to consult a
24 physician of said employee's choice for appropriate care and treatment.
25 Such physician shall thenceforth have supervision of the treatment of
26 said condition including the future treatment to be administered to the
27 patient by the chiropractor. The chair, in consultation with the board's
28 medical director, shall biennially prepare and establish a schedule for
29 the state, or schedules limited to defined localities of charges and
30 fees for chiropractic treatment and care, to be determined in accordance
31 with and to be subject to change pursuant to rules promulgated by the
32 chair. Before preparing such schedule for the state or schedules for
33 limited localities the chair shall request the chiropractic practice
34 committee to submit to him or her a report on the amount of remuneration
35 deemed by such committee to be fair and adequate for the types of
36 chiropractic care to be rendered under this chapter, but consideration
37 shall be given to the view of other interested parties, the amounts
38 payable by the employer for such treatment and services shall be the
39 fees and charges established by such schedule.

40 § 4. Subdivision 3 of section 13-m of the workers' compensation law,
41 as amended by section 6 of part CC of chapter 55 of the laws of 2019, is
42 amended to read as follows:

43 3. The chair, in consultation with the board's medical director, shall
44 biennially prepare and establish a schedule for the state or schedules
45 limited to defined localities of charges and fees for psychological
46 treatment and care, to be determined in accordance with and be subject
47 to change pursuant to rules promulgated by the chair. Before preparing
48 such schedule for the state or schedules for limited localities the
49 chair shall request the psychology practice committee to submit to such
50 chair a report on the amount of remuneration deemed by such committee to
51 be fair and adequate for the types of psychological care to be rendered
52 under this chapter, but consideration shall be given to the view of
53 other interested parties. The amounts payable by the employer for such
54 treatment and services shall be the fees and charges established by such
55 schedule.

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

12 § 6. This act shall take effect immediately.