

STATE OF NEW YORK

246

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

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

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

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1 under this chapter, but consideration shall be given to the views of
2 other interested parties. The chair shall also prepare and establish a
3 schedule for the state, or schedules limited to defined localities, of
4 charges and fees for outpatient hospital services not covered under the
5 medical fee schedule previously referred to in this subdivision, to be
6 determined in accordance with and to be subject to change pursuant to
7 rules promulgated by the chair. Before preparing such schedule for the
8 state or schedules for limited localities the chair shall request the
9 president of the hospital association of New York state to submit to him
10 or her a report on the amount of remuneration deemed by such association
11 to be fair and adequate for the types of hospital outpatient care to be
12 rendered under this chapter, but consideration shall be given to the
13 views of other interested parties. In the case of occupational therapy
14 fees schedules the chair shall request the president of a recognized
15 professional association representing occupational therapists in the
16 state of New York to submit to him or her a report on the amount of
17 remuneration deemed by such association to be fair and reasonable for
18 the type of occupational therapy services rendered under this chapter,
19 but consideration shall be given to the views of other interested
20 parties. The amounts payable by the employer for such treatment and
21 services shall be the fees and charges established by such schedule.
22 Nothing in this schedule, however, shall prevent voluntary payment of
23 amounts higher or lower than the fees and charges fixed therein, but no
24 physician rendering medical treatment or care, and no physical or occu-
25 pational therapist rendering their respective physical or occupational
26 therapy services may receive payment in any higher amount unless such
27 increased amount has been authorized by the employer, or by decision as
28 provided in section thirteen-g of this article. Nothing in this section
29 shall be construed as preventing the employment of a duly authorized
30 physician on a salary basis by an authorized compensation medical bureau
31 or laboratory.

32 § 2. Subdivision 2 of section 13-k of the workers' compensation law,
33 as amended by section 4 of part CC of chapter 55 of the laws of 2019, is
34 amended to read as follows:

35 2. An employee injured under circumstances which make such injury
36 compensable under this article, when care is required for an injury to
37 the foot which injury or resultant condition therefrom may lawfully be
38 treated by a duly registered and licensed podiatrist of the state of New
39 York, may select to treat him or her any podiatrist authorized by the
40 chair to render podiatric medical care, as hereinafter provided. If the
41 injury or condition is one which is without the limits prescribed by the
42 education law for podiatric medical care and treatment, or the injuries
43 involved affect other parts of the body in addition to the foot, the
44 said podiatrist must so advise the said injured employee and instruct
45 him or her to consult a physician of said employee's choice for appro-
46 priate care and treatment. Such physician shall thenceforth have overall
47 supervision of the treatment of said patient including the future treat-
48 ment to be administered to the patient by the podiatrist. If for any
49 reason during the period when podiatric medical treatment and care is
50 required, the employee wishes to transfer his or her treatment and care
51 to another authorized podiatrist he or she may do so, in accordance with
52 rules prescribed by the chair, provided however that the employer shall
53 be liable for the proper fees of the original podiatrist for the care
54 and treatment he or she shall have rendered. The chair, in consultation
55 with the board's medical director, shall biennially prepare and estab-
56 lish a schedule for the state, or schedules limited to defined locali-

ties, of charges and fees for podiatric medical 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 podiatric medicine 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 podiatric medical 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 section 5 of part CC of chapter 55 of the laws of 2019, 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. 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 section 6 of part CC of chapter 55 of the laws of 2019, is amended to read as follows:

3. 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.

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.