

# STATE OF NEW YORK

6929

2023-2024 Regular Sessions

## IN SENATE

May 15, 2023

Introduced by Sen. FERNANDEZ -- 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 workers' access to treatment

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

1 § 1. Subdivision 5 of section 13-a of the workers' compensation law,  
2 as amended by section 8 of part CC of chapter 55 of the laws of 2019, is  
3 amended to read as follows:  
4 (5) No claim for specialist consultations, surgical operations,  
5 physiotherapeutic or occupational therapy procedures, x-ray examinations  
6 or special diagnostic laboratory tests costing more than one thousand  
7 five hundred dollars shall be valid and enforceable, as against such  
8 employer, unless such special services shall have been authorized by the  
9 employer or by the board, or unless such authorization has been unrea-  
10 sonably withheld, or withheld for a period of more than thirty calendar  
11 days from receipt of a request for authorization, or unless such special  
12 services are required in an emergency, provided, however, that the basis  
13 for a denial of such authorization by the employer must be based on a  
14 conflicting second opinion rendered by a physician authorized by the  
15 board. The board, with the approval of the superintendent of financial  
16 services, shall issue and maintain a list of pre-authorized procedures  
17 under this section. Such list of pre-authorized procedures shall be  
18 issued and maintained solely for the purpose of expediting authorization  
19 of treatment of injured workers. Such list of pre-authorized procedures  
20 shall not prohibit varied treatment [~~when the treating provider demon-~~  
21 ~~strates the appropriateness and medical necessity of such~~], nor shall  
22 the list be used as a basis to deny treatment not contained therein.  
23 Requests for varied treatment need only comply with the provisions of  
24 this subdivision.

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

LBD09959-04-3

1 § 2. Subdivision 7 of section 13-a of the workers' compensation law is  
2 amended by adding a new paragraph (e) to read as follows:

3 (e) Any special diagnostic tests, x-ray examinations, magnetic reso-  
4 nance imaging or other radiological examinations or tests costing more  
5 than one thousand five hundred dollars performed by a provider who is  
6 not a member of the carrier's, self-insured's or state insurance fund's  
7 diagnostic network or networks, shall be entitled to payment at the  
8 negotiated network rate.

9 § 3. This act shall take effect immediately.