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. Subdivision 5 of section 13-a of the workers' compensation law, as amended by section 8 of part CC of chapter 55 of the laws of 2019, is amended to read as follows:

(5) No claim for specialist consultations, surgical operations, physiotherapeutic or occupational therapy procedures, x-ray examinations or special diagnostic laboratory tests costing more than one thousand **five hundred** dollars shall be valid and enforceable, as against such employer, unless such special services shall have been authorized by the employer or by the board, or unless such authorization has been unreasonably withheld, or withheld for a period of more than thirty calendar days from receipt of a request for authorization, or unless such special services are required in an emergency, provided, however, that the basis for a denial of such authorization by the employer must be based on a conflicting second opinion rendered by a physician authorized by the board. The board, with the approval of the superintendent of financial services, shall issue and maintain a list of pre-authorized procedures under this section. Such list of pre-authorized procedures shall be issued and maintained **solely** for the purpose of expediting authorization of treatment of injured workers. Such list of pre-authorized procedures shall not prohibit varied treatment [~~when the treating provider demonstrates the appropriateness and medical necessity of such~~], **nor shall the list be used as a basis to deny** treatment **not contained therein. Requests for varied treatment need only comply with the provisions of this subdivision**.

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

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

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

§ 3. This act shall take effect immediately.