

HOUSE BILL No. 5234

December 15, 2011, Introduced by Reps. Yonker, Liss and O'Brien and referred to the Committee on Insurance.

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 315 (MCL 418.315), as amended by 2009 PA 226.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 315. (1) The employer shall furnish, or cause to be
2 furnished, to an employee who receives a personal injury arising
3 out of and in the course of employment, reasonable medical,
4 surgical, and hospital services and medicines, or other attendance
5 or treatment recognized by the laws of this state as legal, when
6 they are needed. However, an employer is not required to reimburse
7 or cause to be reimbursed charges for an optometric service unless
8 that service was included in the definition of practice of
9 optometry under section 17401 of the public health code, 1978 PA
10 368, MCL 333.17401, as of May 20, 1992 or for a chiropractic

1 service unless that service was included in the definition of
2 practice of chiropractic under section 16401 of the public health
3 code, 1978 PA 368, MCL 333.16401, as of January 1, 2009. An
4 employer is not required to reimburse or cause to be reimbursed
5 charges for services performed by a profession that was not
6 licensed or registered by the laws of this state on or before
7 January 1, 1998, but that becomes licensed, registered, or
8 otherwise recognized by the laws of this state after January 1,
9 1998. **AN EMPLOYER IS NOT REQUIRED TO REIMBURSE OR CAUSE TO BE**
10 **REIMBURSED CHARGES FOR PHYSICAL THERAPY SERVICE UNLESS THAT SERVICE**
11 **WAS PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST**
12 **ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST**
13 **PURSUANT TO A PRESCRIPTION ISSUED BY AN INDIVIDUAL HOLDING A**
14 **LICENSE ISSUED UNDER PART 166, 170, 175, OR 180 OF THE PUBLIC**
15 **HEALTH CODE, 1978 PA 368, MCL 333.16601 TO 333.16648, 333.17001 TO**
16 **333.17084, 333.17501 TO 333.17556, AND 333.18001 TO 333.18058, OR**
17 **THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE.** Attendant or
18 nursing care shall not be ordered in excess of 56 hours per week if
19 the care is to be provided by the employee's spouse, brother,
20 sister, child, parent, or any combination of these persons. After
21 10 days from the inception of medical care as provided in this
22 section, the employee may treat with a physician of his or her own
23 choice by giving to the employer the name of the physician and his
24 or her intention to treat with the physician. The employer or the
25 employer's carrier may file a petition objecting to the named
26 physician selected by the employee and setting forth reasons for
27 the objection. If the employer or carrier can show cause why the

1 employee should not continue treatment with the named physician of
2 the employee's choice, after notice to all parties and a prompt
3 hearing by a worker's compensation magistrate, the worker's
4 compensation magistrate may order that the employee discontinue
5 treatment with the named physician or pay for the treatment
6 received from the physician from the date the order is mailed. The
7 employer shall also supply to the injured employee dental service,
8 crutches, artificial limbs, eyes, teeth, eyeglasses, hearing
9 apparatus, and other appliances necessary to cure, so far as
10 reasonably possible, and relieve from the effects of the injury. If
11 the employer fails, neglects, or refuses so to do, the employee
12 shall be reimbursed for the reasonable expense paid by the
13 employee, or payment may be made in behalf of the employee to
14 persons to whom the unpaid expenses may be owing, by order of the
15 worker's compensation magistrate. The worker's compensation
16 magistrate may prorate attorney fees at the contingent fee rate
17 paid by the employee.

18 (2) Except as otherwise provided in subsection (1), all fees
19 and other charges for any treatment or attendance, service,
20 devices, apparatus, or medicine under subsection (1), are subject
21 to rules promulgated by the workers' compensation agency pursuant
22 to the administrative procedures act of 1969, 1969 PA 306, MCL
23 24.201 to 24.328. The rules promulgated shall establish schedules
24 of maximum charges for the treatment or attendance, service,
25 devices, apparatus, or medicine, which schedule shall be annually
26 revised. A health facility or health care provider shall be paid
27 either its usual and customary charge for the treatment or

1 attendance, service, devices, apparatus, or medicine, or the
2 maximum charge established under the rules, whichever is less.

3 (3) The director of the workers' compensation agency shall
4 provide for an advisory committee to aid and assist in establishing
5 the schedules of maximum charges under subsection (2) for charges
6 or fees that are payable under this section. The advisory committee
7 shall be appointed by and serve at the pleasure of the director.

8 (4) If a carrier determines that a health facility or health
9 care provider has made any excessive charges or required
10 unjustified treatment, hospitalization, or visits, the health
11 facility or health care provider shall not receive payment under
12 this chapter from the carrier for the excessive fees or unjustified
13 treatment, hospitalization, or visits, and is liable to return to
14 the carrier the fees or charges already collected. The workers'
15 compensation agency may review the records and medical bills of a
16 health facility or health care provider determined by a carrier to
17 not be in compliance with the schedule of charges or to be
18 requiring unjustified treatment, hospitalization, or office visits.

19 (5) As used in this section, "utilization review" means the
20 initial evaluation by a carrier of the appropriateness in terms of
21 both the level and the quality of health care and health services
22 provided an injured employee, based on medically accepted
23 standards. A utilization review shall be accomplished by a carrier
24 pursuant to a system established by the workers' compensation
25 agency that identifies the utilization of health care and health
26 services above the usual range of utilization for the health care
27 and health services based on medically accepted standards and

1 provides for acquiring necessary records, medical bills, and other
2 information concerning the health care or health services.

3 (6) By accepting payment under this chapter, a health facility
4 or health care provider shall be considered to have consented to
5 submitting necessary records and other information concerning
6 health care or health services provided for utilization review
7 pursuant to this section. The health facilities and health care
8 providers shall be considered to have agreed to comply with any
9 decision of the workers' compensation agency pursuant to subsection
10 (7). A health facility or health care provider that submits false
11 or misleading records or other information to a carrier or the
12 workers' compensation agency is guilty of a misdemeanor punishable
13 by a fine of not more than \$1,000.00 or by imprisonment for not
14 more than 1 year, or both.

15 (7) If it is determined by a carrier that a health facility or
16 health care provider improperly overutilized or otherwise rendered
17 or ordered inappropriate health care or health services, or that
18 the cost of the health care or health services was inappropriate,
19 the health facility or health care provider may appeal to the
20 workers' compensation agency regarding that determination pursuant
21 to procedures provided for under the system of utilization review.

22 (8) The criteria or standards established for the utilization
23 review shall be established by rules promulgated by the workers'
24 compensation agency. A carrier that complies with the criteria or
25 standards as determined by the workers' compensation agency shall
26 be certified by the department.

27 (9) If a health facility or health care provider provides

1 health care or a health service that is not usually associated
2 with, is longer in duration in time than, is more frequent than, or
3 extends over a greater number of days than that health care or
4 service usually does with the diagnosis or condition for which the
5 patient is being treated, the health facility or health care
6 provider may be required by the carrier to explain the necessity or
7 indication for the reasons why in writing.

8 Enacting section 1. This amendatory act does not take effect
9 unless House Bill No. 4603 of the 96th Legislature is enacted into
10 law.