

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 630

By: Smith

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 14, as last amended by Section 2, Chapter 248, O.S.L. 2000 (85 O.S. Supp. 2000, Section 14), which relates to medical attention; making language gender neutral; clarifying language; stating employee's duty in obtaining payment of medical charges; excepting specified charges from workers' compensation claim; relieving employer from certain charges under certain circumstances; authorizing medical provider to seek certain payment from employee; vesting district court with jurisdiction under certain circumstances; entitling injured employee to reasonable attorney fees under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 14, as last amended by Section 2, Chapter 248, O.S.L. 2000 (85 O.S. Supp. 2000, Section 14), is amended to read as follows:

Section 14. A. 1. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. The attending physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the attending physician shall supply a full report of ~~his~~ the treatment to the employer of the injured employee.

2. The attending physician who renders treatment to the employee at any time shall promptly notify the employee and employer

or the employer's insurer in writing after the employee has reached maximum medical improvement and is released from active medical care. If the employee is capable of returning to modified light duty work, the attending physician shall promptly notify the employee and the employer or the employer's insurer thereof in writing and shall also specify what restrictions, if any, must be followed by the employer in order to return the employee to work. In the event the attending physician provides ~~such~~ notification to the employer's insurer, the insurer shall promptly notify the employer.

B. The employer's selected physician shall have the right to examine the injured employee. A report of ~~such~~ the examination shall be furnished the injured employee within seven (7) days after ~~such~~ the examination.

C. If the employer fails or neglects to provide medical treatment within three (3) days after knowledge of the injury, the injured employee, during the period of ~~such~~ neglect or failure, may do so at the expense of the employer; provided, however, that the injured employee, or another in the employee's behalf, may obtain emergency treatment at the expense of the employer where ~~such~~ emergency treatment is not provided by the employer. Unless a self-insured employer, group self-insurance association plan, or an employer's workers' compensation insurance carrier has previously contracted with a certified workplace medical plan, the employee may select a physician of the employee's choice to render necessary medical treatment, at the expense of the employer. The attending physician so selected by the employee shall notify the employer and the insurance carrier within seven (7) days after examination or treatment was first rendered. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public

entity, regardless of whether such entity is insured by the State Insurance Fund, has previously contracted with a certified workplace medical plan, the employee shall have two choices:

1. a. The employee shall have the right, for each work-related injury, to select any physician from a list of physicians provided by the employee at the time of making an election not to participate in the certified workplace medical plan. The list shall consist only of physicians who have:

(1) maintained the employee's medical records prior to an injury and have a documented history of treatment with the employee prior to an injury, or

(2) maintained the medical records of an immediate family member of the employee prior to an injury and have a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this division, immediate family member means the employee's spouse, children, parents, stepchildren, and stepparents.

b. An attending physician selected under this paragraph must agree to comply with all the rules, terms, and conditions of the certified workplace medical plan. An attending physician selected under this paragraph may refer the employee to a physician outside the certified workplace medical plan only if the physician to whom the employee is referred agrees to comply with all the rules, terms, and conditions of the certified workplace medical plan; or

2. The employee shall elect to participate in the certified workplace medical plan.

D. The term "physician" as used in this section shall mean any person licensed in this state as a medical doctor, chiropractor, podiatrist, dentist, osteopathic physician or optometrist. The Court may accept testimony from a psychologist if the testimony is made under the direction of a medical doctor. If an injured employee should die, whether or not the employee has filed a claim, that fact shall not affect liability for medical attention previously rendered, and any person entitled to such benefits may enforce charges therefor as though the employee had survived.

E. 1. Whoever renders medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus, or emergency treatment, may submit ~~such~~ the charges and duration of treatment to the Administrator of the Court for review in accordance with the rules of the Administrator.

2. ~~Such~~ The charges and duration of treatment shall be limited to the usual, customary and reasonable charges and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. ~~Said~~ The fee and treatment schedule shall be based on the usual, customary and reasonable medical charges of health care providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter ~~said~~ the fee and treatment schedule to ensure its adequacy. The Administrator shall not increase the overall medical costs in an amount exceeding the cumulative percentage of change of the Consumer Price Index - Urban (CPI-U) for medical costs since the last biennial review.

3. The Administrator shall adopt a new fee and treatment schedule to be effective not later than January 1, 1998, which establishes maximum allowable reimbursement levels for preparation for or testimony at a deposition or court appearance which shall not exceed Two Hundred Dollars (\$200.00) per hour and for work related or medical disability evaluation services.

4. The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or treatment was provided. The order of the Administrator approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on ~~such~~ medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify ~~said~~ the decision only if it is found to be contrary to the fee and treatment schedule existing at the time the ~~said~~ medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state over such action is hereby abolished, except as provided in paragraph 5 of this section. The foregoing provision, relating to approval and enforcement of ~~such~~ charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders ~~such~~ medical, surgical or other attendance or

treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus.

5. The employee shall have the affirmative duty to submit and obtain the Administrator's approval or to request and conduct a hearing before a judge of the Worker's Compensation Court for payment of all medical and treatment charges related to the employee's claim. The medical provider may assist the employee in the presentation of the charges. Any charge for medical care and treatment that is not submitted to the Administrator, the judge, the employer, or the employer's insurer, by either the employee or the medical provider within twelve (12) months from date of service shall be deemed unrelated to the employee's claim for worker's compensation, and the employer shall not be responsible for the charges. The medical provider, however, may seek payment from the employee in district court with full and exclusive jurisdiction vested in the district court. When an injured employee or a medical care provider has brought a claim in the Workers' Compensation Court to obtain payment for services, a party who prevails in full on the claim shall be entitled to a reasonable attorney's fee.

F. The Court or Administrator shall have authority on application of employee or employer or its insurance carrier to order a change of physicians at the expense of the employer when, in its judgment, such change is desirable or necessary; provided, the employer shall not be liable to make any of the payments provided for in this section, in case of contest of liability, where the Court shall decide that the injury does not come within the provisions of the Workers' Compensation Act.

G. If the employee chooses a physician for treatment and subsequently changes physicians without the prior approval of the Court or Administrator except when prior approval is waived for good cause shown, or without agreement of the parties, the maximum liability of the employer for the aggregate expenses of all such

subsequent physicians shall be Five Hundred Dollars (\$500.00).  
Provided, the limitations shall not apply to referrals by the  
treating physician for treatment or diagnostic procedures.

SECTION 2. This act shall become effective November 1, 2001.

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