

HOUSE BILL No. 5358

February 25, 2014, Introduced by Reps. Shirkey, O'Brien, Foster, Price, Yonker, Robinson,
Hovey-Wright, Dillon, Glardon and Zorn and referred to the Committee on Health Policy.

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 2011 PA 266.

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

1 368, MCL 333.17401, as of May 20, 1992 or for a chiropractic
2 service unless that service was included in the definition of
3 practice of chiropractic under section 16401 of the public health
4 code, 1978 PA 368, MCL 333.16401, as of January 1, 2009. An
5 employer is not required to reimburse or cause to be reimbursed
6 charges for services performed by a profession that was not
7 licensed or registered by the laws of this state on or before
8 January 1, 1998, but that becomes licensed, registered, or
9 otherwise recognized by the laws of this state after January 1,
10 1998. **AN EMPLOYER IS NOT REQUIRED TO REIMBURSE OR CAUSE TO BE**
11 **REIMBURSED CHARGES FOR PHYSICAL THERAPY SERVICE UNLESS THAT SERVICE**
12 **WAS PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST**
13 **ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST**
14 **PURSUANT TO A REFERRAL ISSUED BY A HEALTH CARE PROFESSIONAL WHO**
15 **HOLDS A LICENSE ISSUED UNDER PART 166, 170, 175, OR 180 OF THE**
16 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16601 TO 333.16648,**
17 **333.17001 TO 333.17084, 333.17501 TO 333.17556, AND 333.18001 TO**
18 **333.18058, OR THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE.**
19 Attendant or nursing care shall not be ordered in excess of 56
20 hours per week if the care is to be provided by the employee's
21 spouse, brother, sister, child, parent, or any combination of these
22 persons. After 28 days from the inception of medical care as
23 provided in this section, the employee may treat with a physician
24 of his or her own choice by giving to the employer the name of the
25 physician and his or her intention to treat with the physician. The
26 employer or the employer's carrier may file a petition objecting to
27 the named physician selected by the employee and setting forth

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

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

1 either its usual and customary charge for the treatment or
2 attendance, service, devices, apparatus, or medicine, or the
3 maximum charge established under the rules, whichever is less.

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

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

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

1 and health services based on medically accepted standards and
2 provides for acquiring necessary records, medical bills, and other
3 information concerning the health care or health services.

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

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

24 (8) The **WORKERS' COMPENSATION AGENCY SHALL ESTABLISH** criteria
25 or standards ~~established for the~~ **FOR** utilization review ~~shall be~~
26 ~~established by rules promulgated by the workers' compensation~~
27 ~~agency.~~ **BY RULE.** A carrier that complies with the criteria or

1 standards as determined by the workers' compensation agency shall
2 be certified by the department.

3 (9) If a health facility or health care provider provides
4 health care or a health service that is not usually associated
5 with, is longer in duration in time than, is more frequent than, or
6 extends over a greater number of days than that health care or
7 service usually ~~does with~~ **REQUIRES FOR** the diagnosis or condition
8 for which the patient is being treated, the **CARRIER MAY REQUIRE THE**
9 health facility or health care provider ~~may be required by the~~
10 ~~carrier to explain the necessity or indication for the reasons why~~
11 **THAT CARE OR SERVICE** in writing.

12 Enacting section 1. This amendatory act does not take effect
13 unless House Bill No. 5356 (request no. H00106'13 ***) of the 97th
14 Legislature is enacted into law.