

2010 -- S 2597

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - WORKERS COMPENSATION -
BENEFITS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 11, 2010

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-33-8 of the General Laws in Chapter 28-33 entitled "Workers'
2 Compensation - Benefits" is hereby amended to read as follows:

3 **28-33-8. Employee's choice of physician, dentist, or hospital -- Payment of charges --**
4 **Physician reporting schedule.** -- (a) (1) An injured employee shall have freedom of choice to
5 obtain health care, diagnosis, and treatment from any qualified health care provider initially. The
6 initial health care provider of record may, without prior approval, refer the injured employee to
7 any qualified specialist for independent consultation or assessment, or specified treatment. If the
8 insurer or self-insured employer has a preferred provider network approved and kept on record by
9 the medical advisory board, any change by the employee from the initial health care provider of
10 record shall only be to a health care provider listed in the approved preferred provider network. If
11 the employee seeks to change to a health care provider not in the approved preferred provider
12 network, the employee must obtain the approval of the insurer or self-insured employer. Nothing
13 contained in this section shall prevent the treatment, care, or rehabilitation of an employee by
14 more than one physician, dentist, or hospital. The employee's first visit to any facility providing
15 emergency care or to a physician or medical facility under contract with or agreement with the
16 employer or insurer to provide priority care shall not constitute the employee's initial choice to
17 obtain health care, diagnosis or treatment.

18 (2) In addition to the treatment of qualified health care providers, the employee shall

1 have the freedom to obtain a rehabilitation evaluation by a rehabilitation counselor certified by
2 the director pursuant to section 28-33-41 in cases where the employee has received compensation
3 for a period of more than three (3) months, and the employer shall pay the reasonable fees
4 incurred by the rehabilitation counselor for the initial assessment.

5 (b) Within three (3) days of an initial visit following an injury, the health care provider
6 shall provide to the insurer or self-insured employer, and the employee and his or her attorney a
7 notification of compensable injury form to be approved by the administrator of the medical
8 advisory board. Within three (3) days of the injured employee's release or discharge, return to
9 work, and/or recovery from an injury covered by chapters 29 -- 38 of this title, the health care
10 provider shall provide a notice of release to the insurer or self-insured employer and the employee
11 and his or her attorney on a form approved by the division. A twenty dollar (\$20.00) fee may be
12 charged by the health care provider to the insurer or self-insured employer for the notification of
13 compensable injury forms or notice of release forms or for affidavits filed pursuant to subsection
14 (c) of this section, but only if filed in a timely manner. No claim for care or treatment by a
15 physician, dentist, or hospital chosen by an employee shall be valid and enforceable as against his
16 or her employer, the employer's insurer, or the employee, unless the physician, dentist, or hospital
17 gives written notice of the employee's choice to the employer/insurance carrier within fifteen (15)
18 days after the beginning of the services or treatment. The health care provider shall in writing
19 present to the employer or insurance carrier a final itemized bill for all unpaid services or
20 treatment within three (3) months after the conclusion of the treatment. The employee shall not be
21 personally liable to pay any physician, dentist, or hospital bills in cases where the physician,
22 dentist, or hospital has forfeited the right to be paid by the employer or insurance carrier because
23 of noncompliance with this section.

24 (c) (1) Every six (6) weeks, until maximum medical improvement, any qualified
25 physician or other health care professional providing medical care or treatment to any person for
26 an injury covered by chapters 29 -- 38 of this title shall file an itemized bill and an affidavit with
27 the insurer, the employee and his or her attorney, and the medical advisory board. A ten percent
28 (10%) discount may be taken on the itemized bill affidavits not filed in a timely manner and
29 received by the insurer one week or more late. The affidavit shall be on a form designed and
30 provided by the administrator of the medical advisory board and shall state:

- 31 (i) The nature of the injury being treated;
- 32 (ii) The type of medical treatment provided to date, including type and frequency of
33 treatment(s);
- 34 (iii) Anticipated further treatment including type, frequency, and duration of

1 treatment(s), whether or not maximum medical improvement has been reached or when it is
2 expected to be reached, and the anticipated date of discharge;

3 (iv) Whether the employee can return to the former position of employment or is capable
4 of other work, specifying work restrictions and work capabilities and the degree of functional
5 impairment and/or disability of the employee;

6 (v) Any ownership interest in any ancillary facility to which the patient has been referred
7 for treatment of a compensable injury.

8 (2) The affidavit shall be admissible as an exhibit of the workers' compensation court
9 with or without the appearance of the affiant.

10 (d) "Itemized bill", as referred to in this section, means a statement of charges, on a form
11 HCFA 1500 or other form suitable to the insurer, which includes, but is not limited to, an
12 enumeration of specific types of care provided, facilities or equipment used, services rendered,
13 and appliances or medicines prescribed, for purposes of identifying the treatment given the
14 employee with respect to his or her injury.

15 (e) (1) The treating physician shall furnish to the employee, or to his or her legal
16 representative, a copy of his or her medical report within ten (10) days of the examination date.

17 (2) The treating physician shall notify the employer, and the employee and his or her
18 attorney immediately when an employee is able to return to full or modified work.

19 (3) There shall be no charge for a health record when that health record is necessary to
20 support any appeal or claim under the Workers' Compensation Act section 23-17-19.1(16). The
21 treating physician shall furnish to the employee, or to his or her legal representative, a medical
22 report, within ten (10) days of request, stating the diagnosis, disability, loss of use, end result
23 and/or causal relationship of the employee's condition associated with a work related injury. The
24 physician shall be entitled to charge for these services only as enunciated in the State of Rhode
25 Island Workers' Compensation Medical Fee Schedule.

26 (f) (1) Compensation for medical expenses and other services under section 28-33-5, 28-
27 33-7 or 28-33-8 is due and payable within twenty-one (21) days from the date a request is made
28 for payment of these expenses by the provider of the medical services. In the event payment is not
29 made within twenty-one (21) days from the date a request is made for payment, the provider of
30 medical services may add, and the insurer or self-insurer shall pay, interest at the per annum rate
31 as provided in section 9-21-10 on the amount due. The employee or the medical provider may file
32 a petition with the administrator of the workers' compensation court which petition shall follow
33 the procedure as authorized in chapter 35 of this title.

34 (2) The twenty-one (21) day period in subdivision (1) of this subsection shall begin on

1 the date the insurer receives a request with appropriate documentation required to determine
2 whether the claim is compensable and the payment requested is due.

3 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS - WORKERS COMPENSATION -
BENEFITS

1 This act would require the treating physician of a workers compensation claimant to
2 furnish a report to the employee or legal representative within ten days of request stating the
3 diagnosis, disability, loss of use, end result and/or causal relationship of the employee's
4 condition.

5 This act would take effect upon passage.

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