

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2530

1 AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE MEDICAL PROVIDER FEE SCHEDULE UNDER THE WORKERS'
3 COMPENSATION ACT IN ORDER TO ESTABLISH A MINIMUM RATE FOR
4 PROCEDURES OF AMBULATORY SURGERY PROVIDERS; TO PROVIDE THAT
5 INPATIENT AND OTHER FEE SCHEDULES SHALL BE REVIEWED ANNUALLY AND
6 UPDATED IN ACCORDANCE WITH THE CONSUMER PRICE INDEX; AND FOR
7 RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE
8 OF MISSISSIPPI:

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10 SECTION 1. Section 71-3-15, Mississippi Code of 1972, is
11 amended as follows:

12 71-3-15. (1) The employer shall furnish such medical,
13 surgical, and other attendance or treatment, nurse and hospital
14 service, medicine, crutches, artificial members, and other
15 apparatus for such period as the nature of the injury or the
16 process of recovery may require. The injured employee shall have
17 the right to accept the services furnished by the employer or, in
18 his discretion, to select one (1) competent physician of his
19 choosing and such other specialists to whom he is referred by his
20 chosen physician to administer medical treatment. Referrals by
21 the chosen physician shall be limited to one (1) physician within
22 a specialty or subspecialty area. Except in an emergency
23 requiring immediate medical attention, any additional selection of
24 physicians by the injured employee or further referrals must be
25 approved by the employer, if self-insured, or the carrier prior to
26 obtaining the services of the physician at the expense of the
27 employer or carrier. If denied, the injured employee may apply to
28 the commission for approval of the additional selection or
29 referral, and if the commission determines that such request is

30 reasonable, the employee may be authorized to obtain such
31 treatment at the expense of the employer or carrier. Approval by
32 the employer or carrier does not require approval by the
33 commission. A physician to whom the employee is referred by his
34 employer shall not constitute the employee's selection, unless the
35 employee, in writing, accepts the employer's referral as his own
36 selection. Should the employer desire, he may have the employee
37 examined by a physician other than of the employee's choosing for
38 the purpose of evaluating temporary or permanent disability or
39 medical treatment being rendered under such reasonable terms and
40 conditions as may be prescribed by the commission. If at any time
41 during such period the employee unreasonably refuses to submit to
42 medical or surgical treatment, the commission shall, by order,
43 suspend the payment of further compensation during such time as
44 such refusal continues, and no compensation shall be paid at any
45 time during the period of such suspension; provided, that no claim
46 for medical or surgical treatment shall be valid and enforceable,
47 as against such employer, unless within twenty (20) days following
48 the first treatment the physician or provider giving such
49 treatment shall furnish to the employer, if self-insured, or its
50 carrier, a preliminary report of such injury and treatment, on a
51 form or in a format approved by the commission. Subsequent
52 reports of such injury and treatment must be submitted at least
53 every thirty (30) days thereafter until such time as a final
54 report shall have been made. Reports which are required to be
55 filed hereunder shall be furnished by the medical provider to the
56 employer or carrier, and it shall be the responsibility of the
57 employer or carrier receiving such reports to promptly furnish
58 copies to the commission. The commission may, in its discretion,
59 excuse the failure to furnish such reports within the time
60 prescribed herein if it finds good cause to do so, and may, upon
61 request of any party in interest, order or direct the employer or
62 carrier to pay the reasonable value of medical services rendered
63 to the employee.

64 (2) Whenever in the opinion of the commission a physician
65 has not correctly estimated the degree of permanent disability or
66 the extent of the temporary disability of an injured employee, the

67 commission shall have the power to cause such employee to be
68 examined by a physician selected by the commission, and to obtain
69 from such physician a report containing his estimate of such
70 disabilities. The commission shall have the power in its
71 discretion to charge the cost of such examination to the employer,
72 if he is a self-insurer, or to the insurance company which is
73 carrying the risk.

74 (3) In carrying out this section, the commission shall
75 establish an appropriate medical provider fee schedule, medical
76 cost containment system and utilization review which incorporates
77 one or more medical review panels to determine the reasonableness
78 of charges and the necessity for the services, and limitations on
79 fees to be charged by medical providers for testimony and copying
80 or completion of records and reports and other provisions which,
81 at the discretion of the commission, are necessary to encompass a
82 complete medical cost containment program. In no event shall the
83 fee schedule for ambulatory surgery providers be less than one
84 hundred seventy-five percent (175%) of the then-current Medicare
85 rate for such procedures. Inpatient and other fee schedules shall
86 be reviewed annually and updated in accordance with the Consumer
87 Price Index (CPI). The commission may contract with a private
88 organization or organizations to establish and implement such a
89 medical cost containment system and fee schedule with the cost for
90 administering such a system to be paid out of the administrative
91 expense fund as provided in this chapter. All fees and other
92 charges for such treatment or service shall be limited to such
93 charges as prevail in the same community for similar treatment and
94 shall be subject to regulation by the commission. No medical bill
95 shall be paid to any doctor until all forms and reports required
96 by the commission have been filed. Any employee receiving
97 treatment or service under the provisions of this chapter may not
98 be held responsible for any charge for such treatment or service,
99 and no doctor, hospital or other recognized medical provider shall

100 attempt to bill, charge or otherwise collect from the employee any
101 amount greater than or in excess of the amount paid by the
102 employer, if self-insured, or its workers' compensation carrier.
103 Any dispute over the amount charged for service rendered under the
104 provisions of this chapter, or over the amount of reimbursement
105 for services rendered under the provisions of this chapter, shall
106 be limited to and resolved between the provider and the employer
107 or carrier in accordance with the fee dispute resolution
108 procedures adopted by the commission.

109 (4) The liability of an employer for medical treatment as
110 herein provided shall not be affected by the fact that his
111 employee was injured through the fault or negligence of a third
112 party, not in the same employ, provided the injured employee was
113 engaged in the scope of his employment when injured. The employer
114 shall, however, have a cause of action against such third party to
115 recover any amounts paid by him for such medical treatment.

116 (5) An injured worker who believes that his best interest
117 has been prejudiced by the findings of the physician designated by
118 the employer or carrier shall have the privilege of a medical
119 examination by a physician of his own choosing, at the expense of
120 the carrier or employer. Such examination may be had at any time
121 after injury and prior to the closing of the case, provided that
122 the charge shall not exceed One Hundred Dollars (\$100.00) and
123 shall be paid by the carrier or employer where the previous
124 medical findings are upset, but paid by the employee if previous
125 medical findings are confirmed.

126 (6) Medical and surgical treatment as provided in this
127 section shall not be deemed to be privileged insofar as carrying
128 out the provisions of this chapter is concerned. All findings
129 pertaining to a second opinion medical examination, at the
130 instance of the employer shall be reported as herein required
131 within fourteen (14) days of the examination, except that copies
132 thereof shall also be furnished by the employer or carrier to the

133 employee. All findings pertaining to an independent medical
134 examination by order of the commission shall be reported as
135 provided in the order for such examination.

136 (7) Any medical benefits paid by reason of any accident or
137 health insurance policy or plan paid for by the employer, which
138 were for expenses of medical treatment under this section, are,
139 upon notice to the carrier prior to payment by it, subject to
140 subrogation in favor of the accident or health insurance company
141 to the extent of its payment for medical treatment under this act.
142 Reimbursement to the accident or health insurance company by the
143 carrier or employer, to the extent of such reimbursement, shall
144 constitute payment by the employer or carrier of medical expenses
145 under this section. Under no circumstances, shall any subrogation
146 be had by any insurance company against any compensation benefits
147 paid under this chapter.

148 SECTION 2. This act shall take effect and be in force from
149 and after July 1, 1999.