

By: Senator(s) Dearing

To: Insurance

SENATE BILL NO. 2732

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.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

11 71-3-15. (1) The employer shall furnish such medical,
 12 surgical, and other attendance or treatment, nurse and hospital
 13 service, medicine, crutches, artificial members, and other
 14 apparatus for such period as the nature of the injury or the
 15 process of recovery may require. The injured employee shall have
 16 the right to accept the services furnished by the employer or, in
 17 his discretion, to select one (1) competent physician of his
 18 choosing and such other specialists to whom he is referred by his
 19 chosen physician to administer medical treatment. Referrals by
 20 the chosen physician shall be limited to one (1) physician within
 21 a specialty or subspecialty area. Except in an emergency
 22 requiring immediate medical attention, any additional selection of
 23 physicians by the injured employee or further referrals must be
 24 approved by the employer, if self-insured, or the carrier prior to
 25 obtaining the services of the physician at the expense of the
 26 employer or carrier. If denied, the injured employee may apply to
 27 the commission for approval of the additional selection or
 28 referral, and if the commission determines that such request is

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

61 carrier to pay the reasonable value of medical services rendered
62 to the employee.

63 (2) Whenever in the opinion of the commission a physician
64 has not correctly estimated the degree of permanent disability or
65 the extent of the temporary disability of an injured employee, the
66 commission shall have the power to cause such employee to be
67 examined by a physician selected by the commission, and to obtain
68 from such physician a report containing his estimate of such
69 disabilities. The commission shall have the power in its
70 discretion to charge the cost of such examination to the employer,
71 if he is a self-insurer, or to the insurance company which is
72 carrying the risk.

73 (3) In carrying out this section, the commission shall
74 establish an appropriate medical provider fee schedule, medical
75 cost containment system and utilization review which incorporates
76 one or more medical review panels to determine the reasonableness
77 of charges and the necessity for the services, and limitations on
78 fees to be charged by medical providers for testimony and copying
79 or completion of records and reports and other provisions which,
80 at the discretion of the commission, are necessary to encompass a
81 complete medical cost containment program. In no event shall the
82 fee schedule for outpatient services, including ambulatory surgery
83 services, be less than one hundred seventy-five percent (175%) of
84 the then-current Medicare rate for such procedures. Inpatient and
85 other fee schedules shall be reviewed annually and updated in
86 accordance with the Consumer Price Index (CPI). The commission
87 may contract with a private organization or organizations to
88 establish and implement such a medical cost containment system and
89 fee schedule with the cost for administering such a system to be
90 paid out of the administrative expense fund as provided in this
91 chapter. All fees and other charges for such treatment or service
92 shall be limited to such charges as prevail in the same community
93 for similar treatment and shall be subject to regulation by the

94 commission. No medical bill shall be paid to any doctor until all
95 forms and reports required by the commission have been filed. Any
96 employee receiving treatment or service under the provisions of
97 this chapter may not be held responsible for any charge for such
98 treatment or service, and no doctor, hospital or other recognized
99 medical provider shall attempt to bill, charge or otherwise
100 collect from the employee any amount greater than or in excess of
101 the amount paid by the employer, if self-insured, or its workers'
102 compensation carrier. Any dispute over the amount charged for
103 service rendered under the provisions of this chapter, or over the
104 amount of reimbursement for services rendered under the provisions
105 of this chapter, shall be limited to and resolved between the
106 provider and the employer or carrier in accordance with the fee
107 dispute resolution procedures adopted by the commission.

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

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

125 (6) Medical and surgical treatment as provided in this
126 section shall not be deemed to be privileged insofar as carrying

127 out the provisions of this chapter is concerned. All findings
128 pertaining to a second opinion medical examination, at the
129 instance of the employer shall be reported as herein required
130 within fourteen (14) days of the examination, except that copies
131 thereof shall also be furnished by the employer or carrier to the
132 employee. All findings pertaining to an independent medical
133 examination by order of the commission shall be reported as
134 provided in the order for such examination.

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

147 SECTION 2. This act shall take effect and be in force from
148 and after July 1, 2001.