SENATE BILL NO. 2949

AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN MEDICAL INFORMATION SHALL BE EQUALLY ACCESSIBLE BY EMPLOYEES AND EMPLOYERS IN WORKERS' COMPENSATION CASES; AND FOR RELATED PURPOSES.

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

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

71-3-15. (1) The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, artificial members, and other apparatus for such period as the nature of the injury or the process of recovery may require. The injured employee shall have the right to accept the services furnished by the employer or, in his discretion, to select one (1) competent physician of his choosing and such other specialists to whom he is referred by his chosen physician to administer medical treatment. Referrals by the chosen physician shall be limited to one (1) physician within a specialty or subspecialty area. Except in an emergency requiring immediate medical attention, any additional selection of physicians by the injured employee or further referrals must be approved by the employer, if self-insured, or the carrier prior to obtaining the services of the physician at the expense of the employer or carrier. If denied, the injured employee may apply to the commission for approval of the additional selection or referral, and if the commission determines that such request is reasonable, the employee may be authorized to obtain such treatment at the expense of the employer or carrier. Approval by
the employer or carrier does not require approval by the commission. A physician to whom the employee is referred by his employer shall not constitute the employee's selection, unless the employee, in writing, accepts the employer's referral as his own selection. Should the employer desire, he may have the employee examined by a physician other than of the employee's choosing for the purpose of evaluating temporary or permanent disability or medical treatment being rendered under such reasonable terms and conditions as may be prescribed by the commission. If at any time during such period the employee unreasonably refuses to submit to medical or surgical treatment, the commission shall, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension; provided, that no claim for medical or surgical treatment shall be valid and enforceable, as against such employer, unless within twenty (20) days following the first treatment the physician or provider giving such treatment shall furnish to the employer, if self-insured, or its carrier, a preliminary report of such injury and treatment, on a form or in a format approved by the commission. Subsequent reports of such injury and treatment must be submitted at least every thirty (30) days thereafter until such time as a final report shall have been made. Reports which are required to be filed hereunder shall be furnished by the medical provider to the employer or carrier, and it shall be the responsibility of the employer or carrier receiving such reports to promptly furnish copies to the commission. The commission may, in its discretion, excuse the failure to furnish such reports within the time prescribed herein if it finds good cause to do so, and may, upon request of any party in interest, order or direct the employer or carrier to pay the reasonable value of medical services rendered to the employee.
(2) Whenever in the opinion of the commission a physician has not correctly estimated the degree of permanent disability or the extent of the temporary disability of an injured employee, the commission shall have the power to cause such employee to be examined by a physician selected by the commission, and to obtain from such physician a report containing his estimate of such disabilities. The commission shall have the power in its discretion to charge the cost of such examination to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk.

(3) In carrying out this section, the commission shall establish an appropriate medical provider fee schedule, medical cost containment system and utilization review which incorporates one or more medical review panels to determine the reasonableness of charges and the necessity for the services, and limitations on fees to be charged by medical providers for testimony and copying or completion of records and reports and other provisions which, at the discretion of the commission, are necessary to encompass a complete medical cost containment program. The commission may contract with a private organization or organizations to establish and implement such a medical cost containment system and fee schedule with the cost for administering such a system to be paid out of the administrative expense fund as provided in this chapter. All fees and other charges for such treatment or service shall be limited to such charges as prevail in the same community for similar treatment and shall be subject to regulation by the commission. No medical bill shall be paid to any doctor until all forms and reports required by the commission have been filed. Any employee receiving treatment or service under the provisions of this chapter may not be held responsible for any charge for such treatment or service, and no doctor, hospital or other recognized medical provider shall attempt to bill, charge or otherwise collect from the employee any amount greater than or in excess of
the amount paid by the employer, if self-insured, or its workers' compensation carrier. Any dispute over the amount charged for service rendered under the provisions of this chapter, or over the amount of reimbursement for services rendered under the provisions of this chapter, shall be limited to and resolved between the provider and the employer or carrier in accordance with the fee dispute resolution procedures adopted by the commission.

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

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

(6) Medical and surgical treatment as provided in this section shall not be deemed to be privileged insofar as carrying out the provisions of this chapter is concerned. All findings and opinions pertaining to a medical, psychological or surgical examination or treatment obtained pursuant to this chapter shall be reported on commission forms and shall be equally accessible by employee and employer or their representative. This section shall not be interpreted so as to prohibit or limit either the employee or employer from discussing with any medical provider who treats
or evaluates an employee for an injury or medical condition for which claim is made any information that is necessary to carry out the provisions of this chapter. However, any information obtained pursuant to this section shall not be disseminated by the employer to any parties for purposes inconsistent with this chapter unless authorized in writing by the employee or his duly authorized representative or as otherwise required to do so by a court or administrative body of competent jurisdiction. All findings pertaining to a second opinion medical examination, at the instance of the employer shall be reported as herein required within fourteen (14) days of the examination, except that copies thereof shall also be furnished by the employer or carrier to the employee. All findings pertaining to an independent medical examination by order of the commission shall be reported as provided in the order for such examination.

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

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