SENATE BILL NO. 2999

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 section. 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, 2002.