

By: Representatives Evans, Straughter

To: Insurance; Judiciary A

HOUSE BILL NO. 1293

1 AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE THAT WORKPLACE MEDICAL ATTENTION SHALL BE AVAILABLE FOR  
3 INJURED EMPLOYEES; AND FOR RELATED PURPOSES.

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

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

7 71-3-15. (1) The employer shall furnish emergency services  
8 promptly. Nonemergency medical, surgical, and other attendance or  
9 treatment, nurse and hospital service, medicine, crutches,  
10 artificial members, and other apparatus shall be furnished by the  
11 employer for such period as the nature of the injury or the  
12 process of recovery may require. Adequate facilities shall be  
13 made available for transporting the injured employee to a hospital  
14 where necessary. Safe transportation shall be provided to move  
15 injured employees from the site where the injury occurred to areas  
16 readily accessible to emergency transportation. The management of  
17 each worksite shall post directional signs that are conspicuously  
18 located to identify the routes of ingress and egress from any  
19 worksite located off a public road. The injured employee shall  
20 have the right to accept the services furnished by the employer  
21 or, in his discretion, to select one (1) competent physician of  
22 his choosing and such other specialists to whom he is referred by  
23 his chosen physician to administer medical treatment. Referrals  
24 by the chosen physician shall be limited to one (1) physician  
25 within a specialty or subspecialty area. Except in an emergency  
26 requiring immediate medical attention, any additional selection of  
27 physicians by the injured employee or further referrals must be

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

61 copies to the commission. The commission may, in its discretion,  
62 excuse the failure to furnish such reports within the time  
63 prescribed herein if it finds good cause to do so, and may, upon  
64 request of any party in interest, order or direct the employer or  
65 carrier to pay the reasonable value of medical services rendered  
66 to the employee.

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

77 (3) In carrying out this section, the commission shall  
78 establish an appropriate medical provider fee schedule, medical  
79 cost containment system and utilization review which incorporates  
80 one or more medical review panels to determine the reasonableness  
81 of charges and the necessity for the services, and limitations on  
82 fees to be charged by medical providers for testimony and copying  
83 or completion of records and reports and other provisions which,  
84 at the discretion of the commission, are necessary to encompass a  
85 complete medical cost containment program. The commission may  
86 contract with a private organization or organizations to establish  
87 and implement such a medical cost containment system and fee  
88 schedule with the cost for administering such a system to be paid  
89 out of the administrative expense fund as provided in this  
90 chapter. All fees and other charges for such treatment or service  
91 shall be limited to such charges as prevail in the same community  
92 for similar treatment and shall be subject to regulation by the  
93 commission. No medical bill shall be paid to any doctor until all

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

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

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

124 (6) Medical and surgical treatment as provided in this  
125 section shall not be deemed to be privileged insofar as carrying  
126 out the provisions of this chapter is concerned. All findings

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

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

146 **SECTION 2.** This act shall take effect and be in force from  
147 and after July 1, 2006.