

By: Senator(s) Harden, Williamson

To: Insurance

SENATE BILL NO. 2485

1 AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE WORKPLACE MEDICAL SERVICES AND TRANSPORTATION TO BE  
3 AVAILABLE FOR INJURED PERSONS UNDER THE WORKERS' COMPENSATION LAW;  
4 AND FOR RELATED PURPOSES.

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

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

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

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

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

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

78 (3) In carrying out this section, the commission shall  
79 establish an appropriate medical provider fee schedule, medical  
80 cost containment system and utilization review which incorporates  
81 one or more medical review panels to determine the reasonableness  
82 of charges and the necessity for the services, and limitations on  
83 fees to be charged by medical providers for testimony and copying  
84 or completion of records and reports and other provisions which,  
85 at the discretion of the commission, are necessary to encompass a  
86 complete medical cost containment program. The commission may  
87 contract with a private organization or organizations to establish  
88 and implement such a medical cost containment system and fee  
89 schedule with the cost for administering such a system to be paid  
90 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  
141 section. Reimbursement to the accident or health insurance  
142 company by the carrier or employer, to the extent of such  
143 reimbursement, shall constitute payment by the employer or carrier  
144 of medical expenses under this section. Under no circumstances,  
145 shall any subrogation be had by any insurance company against any  
146 compensation benefits paid under this chapter.

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