

By: Representatives Evans, Straughter

To: Insurance; Judiciary A

HOUSE BILL NO. 1431

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, 2007.