

By: Senator(s) Harden

To: Insurance

SENATE BILL NO. 2191

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, 2007.