

By: Senator(s) Kirby

To: Insurance

## SENATE BILL NO. 2530

1 AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE MEDICAL PROVIDER FEE SCHEDULE UNDER THE WORKERS'  
3 COMPENSATION ACT IN ORDER TO ESTABLISH A MINIMUM RATE FOR  
4 PROCEDURES OF AMBULATORY SURGERY PROVIDERS; TO PROVIDE THAT  
5 INPATIENT AND OTHER FEE SCHEDULES SHALL BE REVIEWED ANNUALLY AND  
6 UPDATED IN ACCORDANCE WITH THE CONSUMER PRICE INDEX; AND FOR  
7 RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE  
8 OF MISSISSIPPI:

9  
10 SECTION 1. Section 71-3-15, Mississippi Code of 1972, is  
11 amended as follows:

12 71-3-15. (1) The employer shall furnish such medical,  
13 surgical, and other attendance or treatment, nurse and hospital  
14 service, medicine, crutches, artificial members, and other  
15 apparatus for such period as the nature of the injury or the  
16 process of recovery may require. The injured employee shall have  
17 the right to accept the services furnished by the employer or, in  
18 his discretion, to select one (1) competent physician of his  
19 choosing and such other specialists to whom he is referred by his  
20 chosen physician to administer medical treatment. Referrals by  
21 the chosen physician shall be limited to one (1) physician within  
22 a specialty or subspecialty area. Except in an emergency  
23 requiring immediate medical attention, any additional selection of  
24 physicians by the injured employee or further referrals must be  
25 approved by the employer, if self-insured, or the carrier prior to  
26 obtaining the services of the physician at the expense of the  
27 employer or carrier. If denied, the injured employee may apply to  
28 the commission for approval of the additional selection or  
29 referral, and if the commission determines that such request is

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

64 (2) Whenever in the opinion of the commission a physician  
65 has not correctly estimated the degree of permanent disability or  
66 the extent of the temporary disability of an injured employee, the

67 commission shall have the power to cause such employee to be  
68 examined by a physician selected by the commission, and to obtain  
69 from such physician a report containing his estimate of such  
70 disabilities. The commission shall have the power in its  
71 discretion to charge the cost of such examination to the employer,  
72 if he is a self-insurer, or to the insurance company which is  
73 carrying the risk.

74 (3) In carrying out this section, the commission shall  
75 establish an appropriate medical provider fee schedule, medical  
76 cost containment system and utilization review which incorporates  
77 one or more medical review panels to determine the reasonableness  
78 of charges and the necessity for the services, and limitations on  
79 fees to be charged by medical providers for testimony and copying  
80 or completion of records and reports and other provisions which,  
81 at the discretion of the commission, are necessary to encompass a  
82 complete medical cost containment program. In no event shall the  
83 fee schedule for ambulatory surgery providers be less than one  
84 hundred seventy-five percent (175%) of the then-current Medicare  
85 rate for such procedures. Inpatient and other fee schedules shall  
86 be reviewed annually and updated in accordance with the Consumer  
87 Price Index (CPI). The commission may contract with a private  
88 organization or organizations to establish and implement such a  
89 medical cost containment system and fee schedule with the cost for  
90 administering such a system to be paid out of the administrative  
91 expense fund as provided in this chapter. All fees and other  
92 charges for such treatment or service shall be limited to such  
93 charges as prevail in the same community for similar treatment and  
94 shall be subject to regulation by the commission. No medical bill  
95 shall be paid to any doctor until all forms and reports required  
96 by the commission have been filed. Any employee receiving  
97 treatment or service under the provisions of this chapter may not  
98 be held responsible for any charge for such treatment or service,  
99 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 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 act. 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, 1999.