

By: Senator(s) Hewes, Gollott, Brown,
Pickering, Albritton

To: Insurance

SENATE BILL NO. 2637

1 AN ACT TO AMEND SECTION 71-3-15, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT CERTAIN MEDICAL INFORMATION SHALL BE EQUALLY
3 ACCESSIBLE BY EMPLOYEES AND EMPLOYERS IN WORKERS' COMPENSATION
4 CASES; 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 furnish such medical,
9 surgical, and other attendance or treatment, nurse and hospital
10 service, medicine, crutches, artificial members, and other
11 apparatus for such period as the nature of the injury or the
12 process of recovery may require. The injured employee shall have
13 the right to accept the services furnished by the employer or, in
14 his discretion, to select one (1) competent physician of his
15 choosing and such other specialists to whom he is referred by his
16 chosen physician to administer medical treatment. Referrals by the
17 chosen physician shall be limited to one (1) physician within a
18 specialty or subspecialty area. Except in an emergency requiring
19 immediate medical attention, any additional selection of
20 physicians by the injured employee or further referrals must be
21 approved by the employer, if self-insured, or the carrier prior to
22 obtaining the services of the physician at the expense of the
23 employer or carrier. If denied, the injured employee may apply to
24 the commission for approval of the additional selection or
25 referral, and if the commission determines that such request is
26 reasonable, the employee may be authorized to obtain such
27 treatment at the expense of the employer or carrier. Approval by
28 the employer or carrier does not require approval by the

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

60 (2) Whenever in the opinion of the commission a physician
61 has not correctly estimated the degree of permanent disability or

62 the extent of the temporary disability of an injured employee, the
63 commission shall have the power to cause such employee to be
64 examined by a physician selected by the commission, and to obtain
65 from such physician a report containing his estimate of such
66 disabilities. The commission shall have the power in its
67 discretion to charge the cost of such examination to the employer,
68 if he is a self-insurer, or to the insurance company which is
69 carrying the risk.

70 (3) In carrying out this section, the commission shall
71 establish an appropriate medical provider fee schedule, medical
72 cost containment system and utilization review which incorporates
73 one or more medical review panels to determine the reasonableness
74 of charges and the necessity for the services, and limitations on
75 fees to be charged by medical providers for testimony and copying
76 or completion of records and reports and other provisions which,
77 at the discretion of the commission, are necessary to encompass a
78 complete medical cost containment program. The commission may
79 contract with a private organization or organizations to establish
80 and implement such a medical cost containment system and fee
81 schedule with the cost for administering such a system to be paid
82 out of the administrative expense fund as provided in this
83 chapter. All fees and other charges for such treatment or service
84 shall be limited to such charges as prevail in the same community
85 for similar treatment and shall be subject to regulation by the
86 commission. No medical bill shall be paid to any doctor until all
87 forms and reports required by the commission have been filed. Any
88 employee receiving treatment or service under the provisions of
89 this chapter may not be held responsible for any charge for such
90 treatment or service, and no doctor, hospital or other recognized
91 medical provider shall attempt to bill, charge or otherwise
92 collect from the employee any amount greater than or in excess of
93 the amount paid by the employer, if self-insured, or its workers'
94 compensation carrier. Any dispute over the amount charged for

95 service rendered under the provisions of this chapter, or over the
96 amount of reimbursement for services rendered under the provisions
97 of this chapter, shall be limited to and resolved between the
98 provider and the employer or carrier in accordance with the fee
99 dispute resolution procedures adopted by the commission.

100 (4) The liability of an employer for medical treatment as
101 herein provided shall not be affected by the fact that his
102 employee was injured through the fault or negligence of a third
103 party, not in the same employ, provided the injured employee was
104 engaged in the scope of his employment when injured. The employer
105 shall, however, have a cause of action against such third party to
106 recover any amounts paid by him for such medical treatment.

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

117 (6) Medical and surgical treatment as provided in this
118 section shall not be deemed to be privileged insofar as carrying
119 out the provisions of this chapter is concerned. All findings and
120 opinions pertaining to a medical, psychological or surgical
121 examination or treatment obtained pursuant to this chapter shall
122 be reported on commission forms and shall be equally accessible by
123 the employee and employer or their representative. This section
124 shall not be interpreted so as to prohibit or limit either the
125 employee or employer from discussing with any medical provider who
126 treats or evaluates an employee for an injury or medical condition
127 for which claim is made any information that is necessary to carry

128 out the provisions of this chapter. However, any information
129 obtained pursuant to this section shall not be disseminated by the
130 employer to any parties for purposes inconsistent with this
131 chapter unless authorized in writing by the employee or his duly
132 authorized representative or as otherwise required to do so by a
133 court or administrative body of competent jurisdiction. All
134 findings pertaining to a second opinion medical examination, at
135 the instance of the employer shall be reported as herein required
136 within fourteen (14) days of the examination, except that copies
137 thereof shall also be furnished by the employer or carrier to the
138 employee. All findings pertaining to an independent medical
139 examination by order of the commission shall be reported as
140 provided in the order for such examination.

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

153 **SECTION 2.** This act shall take effect and be in force from
154 and after July 1, 2005.