

## SENATE BILL No. 33

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-3.

**Synopsis:** Worker's compensation. Adds an ambulatory outpatient surgical center to the definition of "medical service facility" under the worker's compensation law.

**Effective:** July 1, 2015.

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## Boots

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January 6, 2015, read first time and referred to Committee on Pensions & Labor.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 33



A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-3-6-1, AS AMENDED BY P.L.99-2014,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2015]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the  
4 context otherwise requires:  
5 (a) "Employer" includes the state and any political subdivision, any  
6 municipal corporation within the state, any individual or the legal  
7 representative of a deceased individual, firm, association, limited  
8 liability company, or corporation or the receiver or trustee of the same,  
9 using the services of another for pay. A parent corporation and its  
10 subsidiaries shall each be considered joint employers of the  
11 corporation's, the parent's, or the subsidiaries' employees for purposes  
12 of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of  
13 employees shall each be considered joint employers of the employees  
14 provided by the lessor to the lessee for purposes of IC 22-3-2-6 and  
15 IC 22-3-3-31. If the employer is insured, the term includes the  
16 employer's insurer so far as applicable. However, the inclusion of an



1 employer's insurer within this definition does not allow an employer's  
2 insurer to avoid payment for services rendered to an employee with the  
3 approval of the employer. The term also includes an employer that  
4 provides on-the-job training under the federal School to Work  
5 Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in  
6 IC 22-3-2-2.5. The term does not include a nonprofit corporation that  
7 is recognized as tax exempt under Section 501(c)(3) of the Internal  
8 Revenue Code (as defined in IC 6-3-1-11(a)) to the extent the  
9 corporation enters into an independent contractor agreement with a  
10 person for the performance of youth coaching services on a part-time  
11 basis.

12 (b) "Employee" means every person, including a minor, in the  
13 service of another, under any contract of hire or apprenticeship, written  
14 or implied, except one whose employment is both casual and not in the  
15 usual course of the trade, business, occupation, or profession of the  
16 employer.

17 (1) An executive officer elected or appointed and empowered in  
18 accordance with the charter and bylaws of a corporation, other  
19 than a municipal corporation or governmental subdivision or a  
20 charitable, religious, educational, or other nonprofit corporation,  
21 is an employee of the corporation under IC 22-3-2 through  
22 IC 22-3-6. An officer of a corporation who is an employee of the  
23 corporation under IC 22-3-2 through IC 22-3-6 may elect not to  
24 be an employee of the corporation under IC 22-3-2 through  
25 IC 22-3-6. If an officer makes this election, the officer must serve  
26 written notice of the election on the corporation's insurance  
27 carrier and the board. An officer of a corporation may not be  
28 considered to be excluded as an employee under IC 22-3-2  
29 through IC 22-3-6 until the notice is received by the insurance  
30 carrier and the board.

31 (2) An executive officer of a municipal corporation or other  
32 governmental subdivision or of a charitable, religious,  
33 educational, or other nonprofit corporation may, notwithstanding  
34 any other provision of IC 22-3-2 through IC 22-3-6, be brought  
35 within the coverage of its insurance contract by the corporation by  
36 specifically including the executive officer in the contract of  
37 insurance. The election to bring the executive officer within the  
38 coverage shall continue for the period the contract of insurance is  
39 in effect, and during this period, the executive officers thus  
40 brought within the coverage of the insurance contract are  
41 employees of the corporation under IC 22-3-2 through IC 22-3-6.

42 (3) Any reference to an employee who has been injured, when the



1 employee is dead, also includes the employee's legal  
2 representatives, dependents, and other persons to whom  
3 compensation may be payable.

4 (4) An owner of a sole proprietorship may elect to include the  
5 owner as an employee under IC 22-3-2 through IC 22-3-6 if the  
6 owner is actually engaged in the proprietorship business. If the  
7 owner makes this election, the owner must serve upon the owner's  
8 insurance carrier and upon the board written notice of the  
9 election. No owner of a sole proprietorship may be considered an  
10 employee under IC 22-3-2 through IC 22-3-6 until the notice has  
11 been received. If the owner of a sole proprietorship:

12 (A) is an independent contractor in the construction trades and  
13 does not make the election provided under this subdivision,  
14 the owner must obtain a certificate of exemption under  
15 IC 22-3-2-14.5; or

16 (B) is an independent contractor and does not make the  
17 election provided under this subdivision, the owner may obtain  
18 a certificate of exemption under IC 22-3-2-14.5.

19 (5) A partner in a partnership may elect to include the partner as  
20 an employee under IC 22-3-2 through IC 22-3-6 if the partner is  
21 actually engaged in the partnership business. If a partner makes  
22 this election, the partner must serve upon the partner's insurance  
23 carrier and upon the board written notice of the election. No  
24 partner may be considered an employee under IC 22-3-2 through  
25 IC 22-3-6 until the notice has been received. If a partner in a  
26 partnership:

27 (A) is an independent contractor in the construction trades and  
28 does not make the election provided under this subdivision,  
29 the partner must obtain a certificate of exemption under  
30 IC 22-3-2-14.5; or

31 (B) is an independent contractor and does not make the  
32 election provided under this subdivision, the partner may  
33 obtain a certificate of exemption under IC 22-3-2-14.5.

34 (6) Real estate professionals are not employees under IC 22-3-2  
35 through IC 22-3-6 if:

36 (A) they are licensed real estate agents;

37 (B) substantially all their remuneration is directly related to  
38 sales volume and not the number of hours worked; and

39 (C) they have written agreements with real estate brokers  
40 stating that they are not to be treated as employees for tax  
41 purposes.

42 (7) A person is an independent contractor and not an employee



1 under IC 22-3-2 through IC 22-3-6 if the person is an independent  
 2 contractor under the guidelines of the United States Internal  
 3 Revenue Service.

4 (8) An owner-operator that provides a motor vehicle and the  
 5 services of a driver under a written contract that is subject to  
 6 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376 to a motor carrier  
 7 is not an employee of the motor carrier for purposes of IC 22-3-2  
 8 through IC 22-3-6. The owner-operator may elect to be covered  
 9 and have the owner-operator's drivers covered under a worker's  
 10 compensation insurance policy or authorized self-insurance that  
 11 insures the motor carrier if the owner-operator pays the premiums  
 12 as requested by the motor carrier. An election by an  
 13 owner-operator under this subdivision does not terminate the  
 14 independent contractor status of the owner-operator for any  
 15 purpose other than the purpose of this subdivision.

16 (9) A member or manager in a limited liability company may elect  
 17 to include the member or manager as an employee under  
 18 IC 22-3-2 through IC 22-3-6 if the member or manager is actually  
 19 engaged in the limited liability company business. If a member or  
 20 manager makes this election, the member or manager must serve  
 21 upon the member's or manager's insurance carrier and upon the  
 22 board written notice of the election. A member or manager may  
 23 not be considered an employee under IC 22-3-2 through IC 22-3-6  
 24 until the notice has been received.

25 (10) An unpaid participant under the federal School to Work  
 26 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
 27 extent set forth in IC 22-3-2-2.5.

28 (11) A person who enters into an independent contractor  
 29 agreement with a nonprofit corporation that is recognized as tax  
 30 exempt under Section 501(c)(3) of the Internal Revenue Code (as  
 31 defined in IC 6-3-1-11(a)) to perform youth coaching services on  
 32 a part-time basis is not an employee for purposes of IC 22-3-2  
 33 through IC 22-3-6.

34 (12) An individual who is not an employee of the state or a  
 35 political subdivision is considered to be a temporary employee of  
 36 the state for purposes of IC 22-3-2 through IC 22-3-6 while  
 37 serving as a member of a mobile support unit on duty for training,  
 38 an exercise, or a response, as set forth in IC 10-14-3-19(c)(2)(B).

39 (c) "Minor" means an individual who has not reached seventeen  
 40 (17) years of age.

41 (1) Unless otherwise provided in this subsection, a minor  
 42 employee shall be considered as being of full age for all purposes



1 of IC 22-3-2 through IC 22-3-6.

2 (2) If the employee is a minor who, at the time of the accident, is  
 3 employed, required, suffered, or permitted to work in violation of  
 4 IC 20-33-3-35, the amount of compensation and death benefits,  
 5 as provided in IC 22-3-2 through IC 22-3-6, shall be double the  
 6 amount which would otherwise be recoverable. The insurance  
 7 carrier shall be liable on its policy for one-half (1/2) of the  
 8 compensation or benefits that may be payable on account of the  
 9 injury or death of the minor, and the employer shall be liable for  
 10 the other one-half (1/2) of the compensation or benefits. If the  
 11 employee is a minor who is not less than sixteen (16) years of age  
 12 and who has not reached seventeen (17) years of age and who at  
 13 the time of the accident is employed, suffered, or permitted to  
 14 work at any occupation which is not prohibited by law, this  
 15 subdivision does not apply.

16 (3) A minor employee who, at the time of the accident, is a  
 17 student performing services for an employer as part of an  
 18 approved program under IC 20-37-2-7 shall be considered a  
 19 full-time employee for the purpose of computing compensation  
 20 for permanent impairment under IC 22-3-3-10. The average  
 21 weekly wages for such a student shall be calculated as provided  
 22 in subsection (d)(4).

23 (4) The rights and remedies granted in this subsection to a minor  
 24 under IC 22-3-2 through IC 22-3-6 on account of personal injury  
 25 or death by accident shall exclude all rights and remedies of the  
 26 minor, the minor's parents, or the minor's personal  
 27 representatives, dependents, or next of kin at common law,  
 28 statutory or otherwise, on account of the injury or death. This  
 29 subsection does not apply to minors who have reached seventeen  
 30 (17) years of age.

31 (d) "Average weekly wages" means the earnings of the injured  
 32 employee in the employment in which the employee was working at the  
 33 time of the injury during the period of fifty-two (52) weeks  
 34 immediately preceding the date of injury, divided by fifty-two (52),  
 35 except as follows:

36 (1) If the injured employee lost seven (7) or more calendar days  
 37 during this period, although not in the same week, then the  
 38 earnings for the remainder of the fifty-two (52) weeks shall be  
 39 divided by the number of weeks and parts thereof remaining after  
 40 the time lost has been deducted.

41 (2) Where the employment prior to the injury extended over a  
 42 period of less than fifty-two (52) weeks, the method of dividing



1 the earnings during that period by the number of weeks and parts  
 2 thereof during which the employee earned wages shall be  
 3 followed, if results just and fair to both parties will be obtained.  
 4 Where by reason of the shortness of the time during which the  
 5 employee has been in the employment of the employee's employer  
 6 or of the casual nature or terms of the employment it is  
 7 impracticable to compute the average weekly wages, as defined  
 8 in this subsection, regard shall be had to the average weekly  
 9 amount which during the fifty-two (52) weeks previous to the  
 10 injury was being earned by a person in the same grade employed  
 11 at the same work by the same employer or, if there is no person so  
 12 employed, by a person in the same grade employed in the same  
 13 class of employment in the same district.

14 (3) Wherever allowances of any character made to an employee  
 15 in lieu of wages are a specified part of the wage contract, they  
 16 shall be deemed a part of the employee's earnings.

17 (4) In computing the average weekly wages to be used in  
 18 calculating an award for permanent impairment under  
 19 IC 22-3-3-10 for a student employee in an approved training  
 20 program under IC 20-37-2-7, the following formula shall be used.  
 21 Calculate the product of:

- 22 (A) the student employee's hourly wage rate; multiplied by
- 23 (B) forty (40) hours.

24 The result obtained is the amount of the average weekly wages for  
 25 the student employee.

26 (e) "Injury" and "personal injury" mean only injury by accident  
 27 arising out of and in the course of the employment and do not include  
 28 a disease in any form except as it results from the injury.

29 (f) "Billing review service" refers to a person or an entity that  
 30 reviews a medical service provider's bills or statements for the purpose  
 31 of determining pecuniary liability. The term includes an employer's  
 32 worker's compensation insurance carrier if the insurance carrier  
 33 performs such a review.

34 (g) "Billing review standard" means the data used by a billing  
 35 review service to determine pecuniary liability.

36 (h) "Community" means a geographic service area based on ZIP  
 37 code districts defined by the United States Postal Service according to  
 38 the following groupings:

- 39 (1) The geographic service area served by ZIP codes with the first  
 40 three (3) digits 463 and 464.
- 41 (2) The geographic service area served by ZIP codes with the first  
 42 three (3) digits 465 and 466.



- 1 (3) The geographic service area served by ZIP codes with the first  
 2 three (3) digits 467 and 468.
- 3 (4) The geographic service area served by ZIP codes with the first  
 4 three (3) digits 469 and 479.
- 5 (5) The geographic service area served by ZIP codes with the first  
 6 three (3) digits 460, 461 (except 46107), and 473.
- 7 (6) The geographic service area served by the 46107 ZIP code and  
 8 ZIP codes with the first three (3) digits 462.
- 9 (7) The geographic service area served by ZIP codes with the first  
 10 three (3) digits 470, 471, 472, 474, and 478.
- 11 (8) The geographic service area served by ZIP codes with the first  
 12 three (3) digits 475, 476, and 477.
- 13 (i) "Medical service provider" refers to a person or an entity that  
 14 provides services or products to an employee under IC 22-3-2 through  
 15 IC 22-3-6. Except as otherwise provided in IC 22-3-2 through  
 16 IC 22-3-6, the term includes a medical service facility.
- 17 (j) "Medical service facility" means any of the following that  
 18 provides a service or product under IC 22-3-2 through IC 22-3-6 and  
 19 uses the CMS 1450 (UB-04) form for Medicare reimbursement:
- 20 (1) **An ambulatory outpatient surgical center (as defined in**  
 21 **IC 16-18-2-14).**
- 22 (⊕) (2) A hospital (as defined in IC 16-18-2-179).
- 23 (⊖) (3) A hospital based health facility (as defined in  
 24 IC 16-18-2-180).
- 25 (⊗) (4) A medical center (as defined in IC 16-18-2-223.4).
- 26 The term does not include a professional corporation (as defined in  
 27 IC 23-1.5-1-10) comprised of health care professionals (as defined in  
 28 IC 23-1.5-1-8) formed to render professional services as set forth in  
 29 IC 23-1.5-2-3(a)(4) or a health care professional (as defined in  
 30 IC 23-1.5-1-8) who bills for a service or product provided under  
 31 IC 22-3-2 through IC 22-3-6 as an individual or a member of a group  
 32 practice or another medical service provider that uses the CMS 1500  
 33 form for Medicare reimbursement.
- 34 (k) "Pecuniary liability" means the responsibility of an employer or  
 35 the employer's insurance carrier for the payment of the charges for each  
 36 specific service or product for human medical treatment provided  
 37 under IC 22-3-2 through IC 22-3-6, as follows:
- 38 (1) This subdivision applies before July 1, 2014, to all medical  
 39 service providers, and after June 30, 2014, to a medical service  
 40 provider that is not a medical service facility. Payment of the  
 41 charges in a defined community, equal to or less than the charges  
 42 made by medical service providers at the eightieth percentile in





1 the same community for like services or products.

2 (2) This subdivision applies after June 30, 2014, to a medical  
3 service facility. Payment of the charges in a reasonable amount,  
4 which is established by payment of one (1) of the following:

5 (A) The amount negotiated at any time between the medical  
6 service facility and any of the following, if an amount has been  
7 negotiated:

8 (i) The employer.

9 (ii) The employer's insurance carrier.

10 (iii) A billing review service on behalf of a person described  
11 in item (i) or (ii).

12 (iv) A direct provider network that has contracted with a  
13 person described in item (i) or (ii).

14 (B) Two hundred percent (200%) of the amount that would be  
15 paid to the medical service facility on the same date for the  
16 same service or product under the medical service facility's  
17 Medicare reimbursement rate, if an amount has not been  
18 negotiated as described in clause (A).

19 (l) "Service or product" or "services and products" refers to medical,  
20 hospital, surgical, or nursing service, treatment, and supplies provided  
21 under IC 22-3-2 through IC 22-3-6.

22 SECTION 2. IC 22-3-7-9, AS AMENDED BY P.L.99-2014,  
23 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2015]: Sec. 9. (a) As used in this chapter, "employer" includes  
25 the state and any political subdivision, any municipal corporation  
26 within the state, any individual or the legal representative of a deceased  
27 individual, firm, association, limited liability company, or corporation  
28 or the receiver or trustee of the same, using the services of another for  
29 pay. A parent corporation and its subsidiaries shall each be considered  
30 joint employers of the corporation's, the parent's, or the subsidiaries'  
31 employees for purposes of sections 6 and 33 of this chapter. Both a  
32 lessor and a lessee of employees shall each be considered joint  
33 employers of the employees provided by the lessor to the lessee for  
34 purposes of sections 6 and 33 of this chapter. The term also includes an  
35 employer that provides on-the-job training under the federal School to  
36 Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth  
37 under section 2.5 of this chapter. If the employer is insured, the term  
38 includes the employer's insurer so far as applicable. However, the  
39 inclusion of an employer's insurer within this definition does not allow  
40 an employer's insurer to avoid payment for services rendered to an  
41 employee with the approval of the employer. The term does not include  
42 a nonprofit corporation that is recognized as tax exempt under Section



1 501(c)(3) of the Internal Revenue Code (as defined in IC 6-3-1-11(a))  
 2 to the extent the corporation enters into an independent contractor  
 3 agreement with a person for the performance of youth coaching  
 4 services on a part-time basis.

5 (b) As used in this chapter, "employee" means every person,  
 6 including a minor, in the service of another, under any contract of hire  
 7 or apprenticeship written or implied, except one whose employment is  
 8 both casual and not in the usual course of the trade, business,  
 9 occupation, or profession of the employer. For purposes of this chapter  
 10 the following apply:

11 (1) Any reference to an employee who has suffered disablement,  
 12 when the employee is dead, also includes the employee's legal  
 13 representative, dependents, and other persons to whom  
 14 compensation may be payable.

15 (2) An owner of a sole proprietorship may elect to include the  
 16 owner as an employee under this chapter if the owner is actually  
 17 engaged in the proprietorship business. If the owner makes this  
 18 election, the owner must serve upon the owner's insurance carrier  
 19 and upon the board written notice of the election. No owner of a  
 20 sole proprietorship may be considered an employee under this  
 21 chapter unless the notice has been received. If the owner of a sole  
 22 proprietorship:

23 (A) is an independent contractor in the construction trades and  
 24 does not make the election provided under this subdivision,  
 25 the owner must obtain a certificate of exemption under section  
 26 34.5 of this chapter; or

27 (B) is an independent contractor and does not make the  
 28 election provided under this subdivision, the owner may obtain  
 29 a certificate of exemption under section 34.5 of this chapter.

30 (3) A partner in a partnership may elect to include the partner as  
 31 an employee under this chapter if the partner is actually engaged  
 32 in the partnership business. If a partner makes this election, the  
 33 partner must serve upon the partner's insurance carrier and upon  
 34 the board written notice of the election. No partner may be  
 35 considered an employee under this chapter until the notice has  
 36 been received. If a partner in a partnership:

37 (A) is an independent contractor in the construction trades and  
 38 does not make the election provided under this subdivision,  
 39 the partner must obtain a certificate of exemption under  
 40 section 34.5 of this chapter; or

41 (B) is an independent contractor and does not make the  
 42 election provided under this subdivision, the partner may



- 1 obtain a certificate of exemption under section 34.5 of this  
 2 chapter.
- 3 (4) Real estate professionals are not employees under this chapter  
 4 if:
- 5 (A) they are licensed real estate agents;  
 6 (B) substantially all their remuneration is directly related to  
 7 sales volume and not the number of hours worked; and  
 8 (C) they have written agreements with real estate brokers  
 9 stating that they are not to be treated as employees for tax  
 10 purposes.
- 11 (5) A person is an independent contractor in the construction  
 12 trades and not an employee under this chapter if the person is an  
 13 independent contractor under the guidelines of the United States  
 14 Internal Revenue Service.
- 15 (6) An owner-operator that provides a motor vehicle and the  
 16 services of a driver under a written contract that is subject to  
 17 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor  
 18 carrier is not an employee of the motor carrier for purposes of this  
 19 chapter. The owner-operator may elect to be covered and have the  
 20 owner-operator's drivers covered under a worker's compensation  
 21 insurance policy or authorized self-insurance that insures the  
 22 motor carrier if the owner-operator pays the premiums as  
 23 requested by the motor carrier. An election by an owner-operator  
 24 under this subdivision does not terminate the independent  
 25 contractor status of the owner-operator for any purpose other than  
 26 the purpose of this subdivision.
- 27 (7) An unpaid participant under the federal School to Work  
 28 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
 29 extent set forth under section 2.5 of this chapter.
- 30 (8) A person who enters into an independent contractor agreement  
 31 with a nonprofit corporation that is recognized as tax exempt  
 32 under Section 501(c)(3) of the Internal Revenue Code (as defined  
 33 in IC 6-3-1-11(a)) to perform youth coaching services on a  
 34 part-time basis is not an employee for purposes of this chapter.
- 35 (9) An officer of a corporation who is an employee of the  
 36 corporation under this chapter may elect not to be an employee of  
 37 the corporation under this chapter. If an officer makes this  
 38 election, the officer must serve written notice of the election on  
 39 the corporation's insurance carrier and the board. An officer of a  
 40 corporation may not be considered to be excluded as an employee  
 41 under this chapter until the notice is received by the insurance  
 42 carrier and the board.



1 (10) An individual who is not an employee of the state or a  
 2 political subdivision is considered to be a temporary employee of  
 3 the state for purposes of this chapter while serving as a member  
 4 of a mobile support unit on duty for training, an exercise, or a  
 5 response, as set forth in IC 10-14-3-19(c)(2)(B).

6 (c) As used in this chapter, "minor" means an individual who has  
 7 not reached seventeen (17) years of age. A minor employee shall be  
 8 considered as being of full age for all purposes of this chapter.  
 9 However, if the employee is a minor who, at the time of the last  
 10 exposure, is employed, required, suffered, or permitted to work in  
 11 violation of the child labor laws of this state, the amount of  
 12 compensation and death benefits, as provided in this chapter, shall be  
 13 double the amount which would otherwise be recoverable. The  
 14 insurance carrier shall be liable on its policy for one-half (1/2) of the  
 15 compensation or benefits that may be payable on account of the  
 16 disability or death of the minor, and the employer shall be wholly liable  
 17 for the other one-half (1/2) of the compensation or benefits. If the  
 18 employee is a minor who is not less than sixteen (16) years of age and  
 19 who has not reached seventeen (17) years of age, and who at the time  
 20 of the last exposure is employed, suffered, or permitted to work at any  
 21 occupation which is not prohibited by law, the provisions of this  
 22 subsection prescribing double the amount otherwise recoverable do not  
 23 apply. The rights and remedies granted to a minor under this chapter on  
 24 account of disease shall exclude all rights and remedies of the minor,  
 25 the minor's parents, the minor's personal representatives, dependents,  
 26 or next of kin at common law, statutory or otherwise, on account of any  
 27 disease.

28 (d) This chapter does not apply to casual laborers as defined in  
 29 subsection (b), nor to farm or agricultural employees, nor to household  
 30 employees, nor to railroad employees engaged in train service as  
 31 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or  
 32 foremen in charge of yard engines and helpers assigned thereto, nor to  
 33 their employers with respect to these employees. Also, this chapter  
 34 does not apply to employees or their employers with respect to  
 35 employments in which the laws of the United States provide for  
 36 compensation or liability for injury to the health, disability, or death by  
 37 reason of diseases suffered by these employees.

38 (e) As used in this chapter, "disablement" means the event of  
 39 becoming disabled from earning full wages at the work in which the  
 40 employee was engaged when last exposed to the hazards of the  
 41 occupational disease by the employer from whom the employee claims  
 42 compensation or equal wages in other suitable employment, and



1 "disability" means the state of being so incapacitated.

2 (f) For the purposes of this chapter, no compensation shall be  
3 payable for or on account of any occupational diseases unless  
4 disablement, as defined in subsection (e), occurs within two (2) years  
5 after the last day of the last exposure to the hazards of the disease  
6 except for the following:

7 (1) In all cases of occupational diseases caused by the inhalation  
8 of silica dust or coal dust, no compensation shall be payable  
9 unless disablement, as defined in subsection (e), occurs within  
10 three (3) years after the last day of the last exposure to the hazards  
11 of the disease.

12 (2) In all cases of occupational disease caused by the exposure to  
13 radiation, no compensation shall be payable unless disablement,  
14 as defined in subsection (e), occurs within two (2) years from the  
15 date on which the employee had knowledge of the nature of the  
16 employee's occupational disease or, by exercise of reasonable  
17 diligence, should have known of the existence of such disease and  
18 its causal relationship to the employee's employment.

19 (3) In all cases of occupational diseases caused by the inhalation  
20 of asbestos dust, no compensation shall be payable unless  
21 disablement, as defined in subsection (e), occurs within three (3)  
22 years after the last day of the last exposure to the hazards of the  
23 disease if the last day of the last exposure was before July 1, 1985.

24 (4) In all cases of occupational disease caused by the inhalation  
25 of asbestos dust in which the last date of the last exposure occurs  
26 on or after July 1, 1985, and before July 1, 1988, no compensation  
27 shall be payable unless disablement, as defined in subsection (e),  
28 occurs within twenty (20) years after the last day of the last  
29 exposure.

30 (5) In all cases of occupational disease caused by the inhalation  
31 of asbestos dust in which the last date of the last exposure occurs  
32 on or after July 1, 1988, no compensation shall be payable unless  
33 disablement (as defined in subsection (e)) occurs within  
34 thirty-five (35) years after the last day of the last exposure.

35 (g) For the purposes of this chapter, no compensation shall be  
36 payable for or on account of death resulting from any occupational  
37 disease unless death occurs within two (2) years after the date of  
38 disablement. However, this subsection does not bar compensation for  
39 death:

40 (1) where death occurs during the pendency of a claim filed by an  
41 employee within two (2) years after the date of disablement and  
42 which claim has not resulted in a decision or has resulted in a



- 1 decision which is in process of review or appeal; or  
 2 (2) where, by agreement filed or decision rendered, a  
 3 compensable period of disability has been fixed and death occurs  
 4 within two (2) years after the end of such fixed period, but in no  
 5 event later than three hundred (300) weeks after the date of  
 6 disablement.
- 7 (h) As used in this chapter, "billing review service" refers to a  
 8 person or an entity that reviews a medical service provider's bills or  
 9 statements for the purpose of determining pecuniary liability. The term  
 10 includes an employer's worker's compensation insurance carrier if the  
 11 insurance carrier performs such a review.
- 12 (i) As used in this chapter, "billing review standard" means the data  
 13 used by a billing review service to determine pecuniary liability.
- 14 (j) As used in this chapter, "community" means a geographic service  
 15 area based on ZIP code districts defined by the United States Postal  
 16 Service according to the following groupings:
- 17 (1) The geographic service area served by ZIP codes with the first  
 18 three (3) digits 463 and 464.
  - 19 (2) The geographic service area served by ZIP codes with the first  
 20 three (3) digits 465 and 466.
  - 21 (3) The geographic service area served by ZIP codes with the first  
 22 three (3) digits 467 and 468.
  - 23 (4) The geographic service area served by ZIP codes with the first  
 24 three (3) digits 469 and 479.
  - 25 (5) The geographic service area served by ZIP codes with the first  
 26 three (3) digits 460, 461 (except 46107), and 473.
  - 27 (6) The geographic service area served by the 46107 ZIP code and  
 28 ZIP codes with the first three (3) digits 462.
  - 29 (7) The geographic service area served by ZIP codes with the first  
 30 three (3) digits 470, 471, 472, 474, and 478.
  - 31 (8) The geographic service area served by ZIP codes with the first  
 32 three (3) digits 475, 476, and 477.
- 33 (k) As used in this chapter, "medical service provider" refers to a  
 34 person or an entity that provides services or products to an employee  
 35 under this chapter. Except as otherwise provided in this chapter, the  
 36 term includes a medical service facility.
- 37 (l) As used in this chapter, "medical service facility" means any of  
 38 the following that provides a service or product under this chapter and  
 39 uses the CMS 1450 (UB-04) form for Medicare reimbursement:
- 40 **(1) An ambulatory outpatient surgical center (as defined in**  
 41 **IC 16-18-2-14).**
  - 42 **(+) (2) A hospital (as defined in IC 16-18-2-179).**



- 1           ~~(2)~~ **(3)** A hospital based health facility (as defined in  
2           IC 16-18-2-180).
- 3           ~~(3)~~ **(4)** A medical center (as defined in IC 16-18-2-223.4).  
4           The term does not include a professional corporation (as defined in  
5           IC 23-1.5-1-10) comprised of health care professionals (as defined in  
6           IC 23-1.5-1-8) formed to render professional services as set forth in  
7           IC 23-1.5-2-3(a)(4) or a health care professional (as defined in  
8           IC 23-1.5-1-8) who bills for a service or product provided under this  
9           chapter as an individual or a member of a group practice or another  
10          medical service provider that uses the CMS 1500 form for Medicare  
11          reimbursement.
- 12          (m) As used in this chapter, "pecuniary liability" means the  
13          responsibility of an employer or the employer's insurance carrier for the  
14          payment of the charges for each specific service or product for human  
15          medical treatment provided under this chapter as follows:
- 16               (1) This subdivision applies before July 1, 2014, to all medical  
17               service providers, and after June 30, 2014, to a medical service  
18               provider that is not a medical service facility. Payment of the  
19               charges in a defined community, equal to or less than the charges  
20               made by medical service providers at the eightieth percentile in  
21               the same community for like services or products.
- 22               (2) This subdivision applies after June 30, 2014, to a medical  
23               service facility. Payment of the charges in a reasonable amount,  
24               which is established by payment of one (1) of the following:
- 25                       (A) The amount negotiated at any time between the medical  
26                       service facility and any of the following, if an amount has been  
27                       negotiated:
- 28                               (i) The employer.  
29                               (ii) The employer's insurance carrier.  
30                               (iii) A billing review service on behalf of a person described  
31                               in item (i) or (ii).  
32                               (iv) A direct provider network that has contracted with a  
33                               person described in item (i) or (ii).
- 34                       (B) Two hundred percent (200%) of the amount that would be  
35                       paid to the medical service facility on the same date for the  
36                       same service or product under the medical service facility's  
37                       Medicare reimbursement rate, if an amount has not been  
38                       negotiated as described in clause (A).
- 39          (n) "Service or product" or "services and products" refers to  
40          medical, hospital, surgical, or nursing service, treatment, and supplies  
41          provided under this chapter.

