

SENATE BILL No. 33

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.

Boots

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



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.

