

HOUSE BILL No. 2313

By Committee on Commerce, Labor and Economic Development

2-13

1 AN ACT concerning workers compensation; relating to expenses for
2 medical care prior to claim approval; amending K.S.A. 2018 Supp. 44-
3 510h and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 44-510h is hereby amended to read as
7 follows: 44-510h. (a) It shall be the duty of the employer to provide the
8 services of a healthcare provider, and such medical, surgical and hospital
9 treatment, including nursing, medicines, medical and surgical supplies,
10 ambulance, crutches, apparatus and transportation to and from the home of
11 the injured employee to a place outside the community in which such
12 employee resides, and within such community if the director, in the
13 director's discretion, so orders, including transportation expenses
14 computed in accordance with ~~subsection (a)~~ of K.S.A. 44-515(a), and
15 amendments thereto, as may be reasonably necessary to cure and relieve
16 the employee from the effects of the injury.

17 (b) (1) If the director finds, upon application of an injured employee,
18 that the services of the healthcare provider furnished as provided in
19 subsection (a) and rendered on behalf of the injured employee are not
20 satisfactory, the director may authorize the appointment of some other
21 healthcare provider. In any such case, the employer shall submit the names
22 of two healthcare providers who, if possible given the availability of local
23 healthcare providers, are not associated in practice together. The injured
24 employee may select one from the list who shall be the authorized treating
25 healthcare provider. If the injured employee is unable to obtain satisfactory
26 services from any of the healthcare providers submitted by the employer
27 under this paragraph, either party or both parties may request the director
28 to select a treating healthcare provider.

29 (2) Without application or approval, an employee may consult a
30 healthcare provider of the employee's choice for the purpose of
31 examination, diagnosis or treatment, but the employer shall only be liable
32 for the fees and charges of such healthcare provider up to a total amount of
33 ~~\$500~~ \$2,000. The amount allowed for such examination, diagnosis or
34 treatment shall not be used to obtain a functional impairment rating. Any
35 medical opinion obtained in violation of this prohibition shall not be
36 admissible in any claim proceedings under the workers compensation act.

1 (c) An injured employee whose injury or disability has been
2 established under the workers compensation act may rely, if done in good
3 faith, solely or partially on treatment by prayer or spiritual means in
4 accordance with the tenets of practice of a church or religious
5 denomination without suffering a loss of benefits subject to the following
6 conditions:

7 (1) The employer or the employer's insurance carrier agrees thereto in
8 writing either before or after the injury;

9 (2) the employee submits to all physical examinations required by the
10 workers compensation act;

11 (3) the cost of such treatment shall be paid by the employee unless
12 the employer or insurance carrier agrees to make such payment;

13 (4) the injured employee shall be entitled only to benefits that would
14 reasonably have been expected had such employee undergone medical or
15 surgical treatment; and

16 (5) the employer or insurance carrier that made an agreement under
17 paragraph (1) or (3) of this subsection may withdraw from the agreement
18 on 10 days' written notice.

19 (d) In any employment to which the workers compensation act
20 applies, the employer shall be liable to each employee who is employed as
21 a duly authorized law enforcement officer, firefighter, driver of an
22 ambulance as defined in ~~subsection (b) of K.S.A. 65-6112, and~~
23 ~~amendments thereto, an ambulance attendant as defined in subsection (d)~~
24 ~~of K.S.A. 65-6112, and amendments thereto, or a member of a regional~~
25 ~~emergency medical response team as provided in K.S.A. 48-928, and~~
26 ~~amendments thereto, including any person who is serving on a volunteer~~
27 ~~basis in such capacity, for all reasonable and necessary preventive medical~~
28 ~~care and treatment for hepatitis to which such employee is exposed under~~
29 ~~circumstances arising out of and in the course of employment.~~

30 (e) It is presumed that the employer's obligation to provide the
31 services of a healthcare provider, and such medical, surgical and hospital
32 treatment, including nursing, medicines, medical and surgical supplies,
33 ambulance, crutches, apparatus and transportation to and from the home of
34 the injured employee to a place outside the community in which such
35 employee resides, and within such community if the director, in the
36 director's discretion, so orders, including transportation expenses
37 computed in accordance with ~~subsection (a) of K.S.A. 44-515(a), and~~
38 ~~amendments thereto, shall terminate upon the employee reaching~~
39 ~~maximum medical improvement. Such presumption may be overcome~~
40 ~~with medical evidence that it is more probably true than not that additional~~
41 ~~medical treatment will be necessary after such time as the employee~~
42 ~~reaches maximum medical improvement. The term "medical treatment" as~~
43 ~~used in this subsection—(e) means only that treatment provided or~~

1 prescribed by a licensed healthcare provider and shall not include home
2 exercise programs or over-the-counter medications.

3 Sec. 2. K.S.A. 2018 Supp. 44-510h is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its
5 publication in the statute book.