

## HOUSE BILL No. 2617

AN ACT concerning workers compensation; relating to the medical administrator; electronic filing for administrative hearings; records disclosure; amending K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. 44-510i and 44-550b and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 44-510i is hereby amended to read as follows: 44-510i. (a) ~~Subject to the approval of the secretary,~~ the director shall ~~contract with or appoint, subject to the approval of the secretary,~~ a specialist in health services delivery, who shall be referred to as the medical administrator. The medical administrator shall be a person licensed to practice medicine and surgery in this state and, *if appointed*, shall be in the unclassified service under the Kansas civil service act.

(b) The medical administrator, subject to the direction of the director, shall have the duty of overseeing the providing of health care services to employees in accordance with the provisions of the workers compensation act, including, but not limited to:

(1) Preparing, with the assistance of the advisory panel, the fee schedule for health care services as set forth in this section;

(2) developing, with the assistance of the advisory panel, the utilization review program for health care services as set forth in this section;

(3) developing a system for collecting and analyzing data on expenditures for health care services by each type of provider under the workers compensation act; and

(4) carrying out such other duties as may be delegated or directed by the director or secretary.

(c) The director shall prepare and adopt rules and regulations which establish a schedule of maximum fees for medical, surgical, hospital, dental, nursing, vocational rehabilitation or any other treatment or services provided or ordered by health care providers and rendered to employees under the workers compensation act and procedures for appeals and review of disputed charges or services rendered by health care providers under this section:

(1) The schedule of maximum fees shall be reasonable, shall promote health care cost containment and efficiency with respect to the workers compensation health care delivery system, and shall be sufficient to ensure availability of such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury. The schedule shall include provisions and review procedures for exceptional cases involving extraordinary medical procedures or circumstances and shall include costs and charges for medical records and testimony.

(2) In every case, all fees, transportation costs, charges under this section and all costs and charges for medical records and testimony shall be subject to approval by the director and shall be limited to such as are fair, reasonable and necessary. The schedule of maximum fees shall be revised as necessary at least every two years by the director to assure that the schedule is current, reasonable and fair.

(3) Any contract or any billing or charge which any health care provider, vocational rehabilitation service provider, hospital, person or institution enters into with or makes to any patient for services rendered in connection with injuries covered by the workers compensation act or the fee schedule adopted under this section, which is or may be in excess of or not in accordance with such act or fee schedule, is unlawful, void and unenforceable as a debt.

(d) There is hereby created an advisory panel to assist the director in establishing a schedule of maximum fees as required by this section. The panel shall consist of the commissioner of insurance and 11 members appointed as follows: One person shall be appointed by the Kansas medical society; one member shall be appointed by the Kansas association of osteopathic medicine; one member shall be appointed by the Kansas hospital association; one member shall be appointed by the Kansas chiropractic association; one member shall be appointed by the Kansas physical therapy association; one member shall be appointed by the Kansas occupational therapy association; and five members shall be appointed by the secretary. Of the members appointed by the secretary, two shall be representatives of employers recommended to the secretary by the Kansas chamber of commerce and industry; two shall be representatives of employees recommended to the secretary by the Kansas AFL-CIO; and one shall be a representative of providers of vocational rehabilitation serv-

ices pursuant to K.S.A. 44-510g, and amendments thereto. Each appointed member shall be appointed for a term of office of two years which shall commence on July 1 of the year of appointment. Members of the advisory panel attending meetings of the advisory panel, or attending a subcommittee of the advisory panel authorized by the advisory panel, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) All fees and other charges paid for such treatment, care and attendance, including treatment, care and attendance provided by any health care provider, hospital or other entity providing health care services, shall not exceed the amounts prescribed by the schedule of maximum fees established under this section or the amounts authorized pursuant to the provisions and review procedures prescribed by the schedule for exceptional cases. With the exception of the rules and regulations established for the payment of selected hospital inpatient services under the diagnosis related group prospective payment system, a health care provider, hospital or other entity providing health care services shall be paid either such health care provider, hospital or other entity's usual and customary charge for the treatment, care and attendance or the maximum fees as set forth in the schedule, whichever is less. In reviewing and approving the schedule of maximum fees, the director shall consider the following:

(1) The levels of fees for similar treatment, care and attendance imposed by other health care programs or third-party payors in the locality in which such treatment or services are rendered;

(2) the impact upon cost to employers for providing a level of fees for treatment, care and attendance which will ensure the availability of treatment, care and attendance required for injured employees;

(3) the potential change in workers compensation insurance premiums or costs attributable to the level of treatment, care and attendance provided; and

(4) the financial impact of the schedule of maximum fees upon health care providers and health care facilities and its effect upon their ability to make available to employees such reasonably necessary treatment, care and attendance to each injured employee to cure and relieve the employee from the effects of the injury.

Sec. 2. K.S.A. 44-534 is hereby amended to read as follows: 44-534.

(a) Whenever the employer, worker, Kansas workers compensation fund or insurance carrier cannot agree upon the worker's right to compensation under the workers compensation act or upon any issue in regard to workers compensation benefits due the injured worker thereunder, the employer, worker, Kansas worker's compensation fund or insurance carrier may apply in writing to the director for a determination of the benefits or compensation due or claimed to be due. The application shall be *filed* in the form prescribed by the rules and regulations of the director, *including requirements for electronic filing*, and *the application* shall set forth the substantial and material facts in relation to the claim. Whenever an application is filed under this section, the matter shall be assigned to an administrative law judge. The director shall forthwith mail a certified copy of the application to the adverse party. The administrative law judge shall proceed, upon due and reasonable notice to the parties, which shall not be less than 20 days, to hear all evidence in relation thereto and to make findings concerning the amount of compensation, if any due to the worker.

(b) No proceeding for compensation shall be maintained under the workers compensation act unless an application for a hearing is on file in the office of the director within three years of the date of the accident or within two years of the date of the last payment of compensation, whichever is later.

(c) *After implementation of rules and regulations by the director, if the workers compensation electronic filing system is inaccessible on the last day for filing, then the time for filing shall be extended to the first accessible day that is not a Saturday, Sunday or legal holiday. As used in this subsection:*

(1) "Last day" means:

(A) *For electronic or facsimile filing, at midnight in the division's time zone on the final day for filing; and*

(B) for filing by other means, at 5 p.m. in the division's time zone on the final day for filing; and

(2) "legal holiday" means any day declared a holiday by the president of the United States, the congress of the United States or the legislature of this state, or any day observed as a holiday by order of the governor. A half holiday shall be treated as other days and not as a holiday.

Sec. 3. K.S.A. 44-536a is hereby amended to read as follows: 44-536a.

(a) Every pleading, motion and other ~~paper~~ document provided for by the workers compensation act of any party, who is represented by an attorney, shall be signed by at least one attorney of record in the attorney's individual name, and the attorney's address ~~and~~, telephone number, fax number, email address and supreme court registration number shall be stated. Signature by electronic means, when utilizing the workers compensation electronic filing system, satisfies the requirements for signing. A pleading, motion or other ~~paper~~ document provided for by the workers compensation act of any party who is not represented by an attorney shall be signed by the party in writing or electronically, when utilizing the workers compensation electronic filing system, and shall state the party's name, address, telephone number, fax number and email address, if applicable.

(b) Except when otherwise specifically provided by rule and regulation of the director, pleadings need not be verified or accompanied by an affidavit. The signature of a person constitutes a certificate by the person: (1) That the person has read the pleading; (2) that to the best of the person's knowledge, information and belief formed after reasonable inquiry, the pleading is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and (3) that the pleading is not imposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of resolving disputed claims for benefits.

(c) If any pleading, motion or other ~~paper~~ document provided for by the workers compensation act is not signed, such pleading, motion or other ~~paper~~ document shall not be accepted and shall be void unless it is signed promptly after the omission is called to the attention of the pleader or movant.

(d) If a pleading, motion or other ~~paper~~ document provided for by the workers compensation act is signed in violation of this section, the administrative law judge, director or board, upon motion or upon its own initiative upon notice and after opportunity to be heard, shall impose upon the person who signed such pleading or a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other ~~paper~~ document, including reasonable attorney fees.

Sec. 4. K.S.A. 2015 Supp. 44-550b is hereby amended to read as follows: 44-550b. (a) All records provided to be maintained under K.S.A. 44-550, and amendments thereto, and notwithstanding the provisions of K.S.A. 45-215 et seq., and amendments thereto, shall be open to public inspection, except:

(1) Records relating to financial information submitted by an employer to qualify as a self-insurer pursuant to K.S.A. 44-532, and amendments thereto;

(2) records which relate to utilization review or peer review conducted pursuant to K.S.A. 44-510j, and amendments thereto, shall not be disclosed except to the health care provider and as otherwise specifically provided by the workers compensation act;

(3) records relating to private premises safety inspections;

(4) medical records, forms collected pursuant to ~~subsection (b) of~~ K.S.A. 44-567(b), and amendments thereto, accident reports maintained under K.S.A. 44-550, and amendments thereto, and social security numbers pertaining to an individual which shall not be disclosed except:

(A) Upon order of a court of competent jurisdiction;

(B) to the employer, its insurance carrier or its representative, from whom a worker seeks workers compensation benefits;

(C) to the division of workers compensation for its own purposes;

(D) to federal or state governmental agencies for purposes of fraud

and abuse investigations *and child support enforcement, except that such disclosure shall not then be open to public inspection;*

(E) to an employer in connection with any application for employment to an employer, its insurance carrier or representatives providing: (i) A conditional offer of employment has been made; and (ii) the request for records includes a signed release by the individual, identifies the job conditionally offered by the employer and is submitted in writing, either by mail or electronic means. Requests relating to an individual under this subsection shall be considered a record to be maintained and open to public inspection under K.S.A. 44-550, and amendments thereto, except social security numbers;

(F) to the workers compensation fund for its own purposes; and

(G) to the worker upon written release by the worker.

(b) This section shall be part of and supplemental to the workers compensation act.

Sec. 5. K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. 44-510i and 44-550b are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

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HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*