

2011 -- S 0424

LC01074

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION--
BENEFITS

Introduced By: Senator Maryellen Goodwin

Date Introduced: March 10, 2011

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-33-8 of the General Laws in Chapter 28-33 entitled "Workers'
2 Compensation - Benefits" is hereby amended to read as follows:

3 **28-33-8. Employee's choice of physician, dentist, or hospital -- Payment of charges --**
4 **Physician reporting schedule.** -- (a) (1) An injured employee shall have freedom of choice to
5 obtain health care, diagnosis, and treatment from any qualified health care provider initially. The
6 initial health care provider of record may, without prior approval, refer the injured employee to
7 any qualified specialist for independent consultation or assessment, or specified treatment. If the
8 insurer or self-insured employer has a preferred provider network approved and kept on record by
9 the medical advisory board, any change by the employee from the initial health care provider of
10 record shall only be to a health care provider listed in the approved preferred provider network;
11 provided, however, that any contract proffered or maintained which restricts or limits the health
12 care provider's ability to make referrals pursuant to the provisions of this section, restricts the
13 injured employee's first choice of health care provider, substitutes or overrules the treatment
14 protocols maintained by the medical advisory board or attempts to evade or limit the jurisdiction
15 of the workers' compensation court shall be void as against public policy. [If the employee seeks](#)
16 [to change to a health care provider in the approved preferred provider network, the insurer or self-](#)
17 [insured employer shall authorize treatment to the new health care provider.](#) If the employee seeks
18 to change to a health care provider not in the approved preferred provider network, the employee

1 must obtain the approval of the insurer or self-insured employer. Nothing contained in this
2 section shall prevent the treatment, care, or rehabilitation of an employee by more than one
3 physician, dentist, or hospital. ~~The employee's first visit to~~ Any treatment to an employee by any
4 facility providing emergency care or ~~to~~ by a physician or medical facility under contract with or
5 agreement with the employer or insurer to provide priority care shall not constitute the
6 employee's initial choice to obtain health care, diagnosis or treatment.

7 (2) In addition to the treatment of qualified health care providers, the employee shall
8 have the freedom to obtain a rehabilitation evaluation by a rehabilitation counselor certified by
9 the director pursuant to section 28-33-41 in cases where the employee has received compensation
10 for a period of more than three (3) months, and the employer shall pay the reasonable fees
11 incurred by the rehabilitation counselor for the initial assessment.

12 (b) Within three (3) days of an initial visit following an injury, the health care provider
13 shall provide to the insurer or self-insured employer, and the employee and his or her attorney a
14 notification of compensable injury form to ~~be~~ approved by the administrator of the medical
15 advisory board. Within three (3) days of the injured employee's release or discharge, return to
16 work, and/or recovery from an injury covered by chapters 29 -- 38 of this title, the health care
17 provider shall provide a notice of release to the insurer or self-insured employer and the employee
18 and his or her attorney on a form approved by the division. A twenty dollar (\$20.00) fee may be
19 charged by the health care provider to the insurer or self-insured employer for the notification of
20 compensable injury forms or notice of release forms or for affidavits filed pursuant to subsection
21 (c) of this section, but only if filed in a timely manner. No claim for care or treatment by a
22 physician, dentist, or hospital chosen by an employee shall be valid and enforceable as against his
23 or her employer, the employer's insurer, or the employee, unless the physician, dentist, or hospital
24 gives written notice of the employee's choice to the employer/insurance carrier within fifteen (15)
25 days after the beginning of the services or treatment. The health care provider shall in writing
26 present to the employer or insurance carrier a final itemized bill for all unpaid services or
27 treatment within three (3) months after the conclusion of the treatment. The employee shall not be
28 personally liable to pay any physician, dentist, or hospital bills in cases where the physician,
29 dentist, or hospital has forfeited the right to be paid by the employer or insurance carrier because
30 of noncompliance with this section.

31 (c) (1) At six (6) weeks from the date of injury, then every twelve (12) weeks thereafter
32 until maximum medical improvement, any qualified physician or other health care professional
33 providing medical care or treatment to any person for an injury covered by chapters 29 -- 38 of
34 this title shall file an itemized bill and an affidavit with the insurer, the employee and his or her

1 attorney, and the medical advisory board. A ten percent (10%) discount may be taken on the
2 itemized bill affidavits not filed in a timely manner and received by the insurer one week or more
3 late. The affidavit shall be on a form designed and provided by the administrator of the medical
4 advisory board and shall state:

5 (i) The type of medical treatment provided to date, including type and frequency of
6 treatment(s);

7 (ii) Anticipated further treatment including type, frequency, and duration of treatment(s),
8 whether or not maximum medical improvement has been reached and the anticipated date of
9 discharge;

10 (iii) Whether the employee can return to the former position of employment or is capable
11 of other work, specifying work restrictions and work capabilities of the employee;

12 (2) The affidavit shall be admissible as an exhibit of the workers' compensation court
13 with or without the appearance of the affiant.

14 (d) "Itemized bill", as referred to in this section, means a statement of charges, on a form
15 HCFA 1500 or other form suitable to the insurer, which includes, but is not limited to, an
16 enumeration of specific types of care provided, facilities or equipment used, services rendered,
17 and appliances or medicines prescribed, for purposes of identifying the treatment given the
18 employee with respect to his or her injury.

19 (e) (1) The treating physician shall furnish to the employee, or to his or her legal
20 representative, a copy of his or her medical report within ten (10) days of the examination date.

21 (2) The treating physician shall notify the employer, and the employee and his or her
22 attorney immediately when an employee is able to return to full or modified work.

23 (3) There shall be no charge for a health record when that health record is necessary to
24 support any appeal or claim under the Workers' Compensation Act section 23-17-19.1(16). The
25 treating physician shall furnish to the employee, or to his or her legal representative, a medical
26 report, within ten (10) days of the request, stating the diagnosis, disability, loss of use, end result
27 and/or causal relationship of the employee's condition associated with the work related injury.
28 The physician shall be entitled to charge for these services only as enunciated in the State of
29 Rhode Island workers compensation medical fee schedule.

30 (f) (1) Compensation for medical expenses and other services under section 28-33-5, 28-
31 33-7 or 28-33-8 is due and payable within twenty-one (21) days from the date a request is made
32 for payment of these expenses by the provider of the medical services. In the event payment is not
33 made within twenty-one (21) days from the date a request is made for payment, the provider of
34 medical services may add, and the insurer or self-insurer shall pay, interest at the per annum rate

1 as provided in section 9-21-10 on the amount due. The employee or the medical provider may file
2 a petition with the administrator of the workers' compensation court which petition shall follow
3 the procedure as authorized in chapter 35 of this title.

4 (2) The twenty-one (21) day period in subdivision (1) of this subsection shall begin on
5 the date the insurer receives a request with appropriate documentation required to determine
6 whether the claim is compensable and the payment requested is due.

7 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION--
BENEFITS

- 1 This act would require the provision of the workers' compensation law which allows an
- 2 employee to choose his or her physician.
- 3 This act would take effect upon passage.

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