

2010 -- S 2361

LC00540

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

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

Introduced By: Senators Ruggerio, Goodwin, Ciccone, and Miller

Date Introduced: February 11, 2010

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 has freedom of choice to obtain
5 health care, diagnosis, and treatment from any qualified health care provider initially. The initial
6 health care provider of record may, without prior approval, refer the injured employee to any
7 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 may only be to a health care provider listed in the approved preferred provider network. If
11 the employee seeks to change to a health care provider in the approved preferred provider
12 network, the insurer or self-insured employer shall authorize treatment to the new health care
13 provider. If the employee seeks to change to a health care provider not in the approved preferred
14 provider network, the employee must obtain the approval of the insurer or self-insured employer.
15 Nothing contained in this section shall prevent the treatment, care, or rehabilitation of an
16 employee by more than one physician, dentist, or hospital. ~~The employee's first visit to any~~ Any
17 treatment by an employee to any facility providing emergency care or to a physician or medical
18 facility under contract with or agreement with the employer or insurer to provide priority care

1 shall not constitute the employee's initial choice to obtain health care, diagnosis, or treatment.

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

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

26 (c) (1) Every six (6) weeks, until maximum medical improvement, any qualified
27 physician or other health care professional providing medical care or treatment to any person for
28 an injury covered by chapters 29 -- 38 of this title files an itemized bill and an affidavit with the
29 insurer, the employee and his or her attorney, and the medical advisory board. A ten percent
30 (10%) discount may be taken on the itemized bill affidavits not filed timely and received by the
31 insurer one week or more late. The affidavit shall be on a form designed and provided by the
32 administrator of the medical advisory board and shall state:

33 (i) The nature of the injury being treated;

34 (ii) The type of medical treatment provided to date, including type and frequency of

1 treatment(s);

2 (iii) Anticipated further treatment including type, frequency, and duration of
3 treatment(s), whether or not maximum medical improvement has been reached or when it is
4 expected to be reached, and the anticipated date of discharge;

5 (iv) Whether the employee can return to the former position of employment or is capable
6 of other work, specifying work restrictions and work capabilities and the degree of functional
7 impairment and/or disability of the employee;

8 (v) Any ownership interest in any ancillary facility to which the patient has been referred
9 for treatment of a compensable injury.

10 (2) The affidavit is admissible as an exhibit of the workers' compensation court with or
11 without the appearance of the affiant.

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

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

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

21 (3) There shall be no charge for a health record when that health record is necessary to
22 support any appeal or claim under the Workers' Compensation Act per section 23-17-19.1(16).

23 (f) (1) Compensation for medical expenses and other services under section 28-33-5, 28-
24 33-7 or 28-33-8 is due and payable within twenty-one (21) days from the date a request is made
25 for payment of these expenses by the provider of the medical services. In the event payment is not
26 made within twenty-one (21) days from the date a request is made for payment, the provider of
27 medical services may add, and the insurer or self-insurer shall pay, interest at the per annum rate
28 as provided in section 9-21-10 on the amount due. The employee or the medical provider may file
29 a petition with the administrator of the workers' compensation court, which petition shall follow
30 the procedure as authorized in chapter 35 of this title.

31 (2) The twenty-one (21) day period in subsection (f)(1) begins on the date the insurer
32 receives a request with appropriate documentation required to determine whether the claim is
33 compensable and the payment requested is due.

1 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 clarify employees' right to choose an initial treating physician.
- 2 This act would take effect upon passage.

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