

STATE OF NEW YORK

5209

2007-2008 Regular Sessions

IN SENATE

April 25, 2007

Introduced by Sen. PADAVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to the establishment of rates of payment and delivery of health care services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The closing paragraph of subdivision (a) of section 13 of
2 the workers' compensation law, as amended by chapter 6 of the laws of
3 2007, is amended to read as follows:
4 The chair shall **annually** prepare and establish a schedule for the
5 state, or schedules limited to defined localities, of charges and fees
6 for such medical treatment and care, and including all medical, dental,
7 surgical, optometric or other attendance or treatment, nurse and hospi-
8 tal service, medicine, optometric services, crutches, eye-glasses, false
9 teeth, artificial eyes, orthotics, prosthetic devices, functional assis-
10 tive and adaptive devices and apparatus in accordance with and to be
11 subject to change pursuant to rules promulgated by the chair. Before
12 preparing such schedule for the state or schedules for limited locali-
13 ties the chair shall request the president of the medical society of the
14 state of New York and the president of the New York state osteopathic
15 medical society to submit to him or her a report on the amount of remun-
16 eration deemed by such society to be fair and adequate for the types of
17 medical care to be rendered under this chapter, but consideration shall
18 be given to the view of other interested parties. In the case of phys-
19 ical therapy fees schedules the chair shall request the president of [**a**
20 **recognized professional association representing physical therapists in**
21 **the state of New York**] **the New York physical therapy association** to
22 submit to him or her a report on the amount of remuneration deemed by
23 such association to be fair and reasonable for the type of physical
24 therapy services rendered under this chapter, but consideration shall be
25 given to the views of other interested parties. The chair shall also

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 prepare and establish a schedule for the state, or schedules limited to
2 defined localities, of charges and fees for outpatient hospital services

3 not covered under the medical fee schedule previously referred to in
4 this subdivision, to be determined in accordance with and to be subject
5 to change pursuant to rules promulgated by the chair. Before preparing
6 such schedule for the state or schedules for limited localities the
7 chair shall request the president of the hospital association of New
8 York state to submit to him or her a report on the amount of remunera-
9 tion deemed by such association to be fair and adequate for the types of
10 hospital outpatient care to be rendered under this chapter, but consid-
11 eration shall be given to the views of other interested parties. In the
12 case of occupational therapy fees schedules the chair shall request the
13 president of a recognized professional association representing occupa-
14 tional therapists in the state of New York to submit to him or her a
15 report on the amount of remuneration deemed by such association to be
16 fair and reasonable for the type of occupational therapy services
17 rendered under this chapter, but consideration shall be given to the
18 views of other interested parties. The amounts payable by the employer
19 for such treatment and services shall be the fees and charges estab-
20 lished by such schedule. Nothing in this schedule, however, shall
21 prevent voluntary payment of amounts higher or lower than the fees and
22 charges fixed therein, but no physician rendering medical treatment or
23 care, and no physical or occupational therapist rendering their respec-
24 tive physical or occupational therapy services may receive payment in
25 any higher amount unless such increased amount has been authorized by
26 the employer, or by decision as provided in section thirteen-g of this
27 article. Nothing in this section shall be construed as preventing the
28 employment of a duly authorized physician on a salary basis by an
29 authorized compensation medical bureau or laboratory.

30 § 2. Paragraph (d) of subdivision 1 of section 13-b of the workers'
31 compensation law, as amended by chapter 473 of the laws of 2000, is
32 amended to read as follows:

33 (d) Upon the referral which may be directive as to treatment of an
34 authorized physician physical therapy care may be rendered by a [~~duly~~
35 ~~licensed~~] physical therapist **practitioner duly licensed or certified**
36 **pursuant to article one hundred thirty-six of the education law. At the**
37 **election of an employer or insurance carrier, physical therapy may be**
38 **rendered without a referral.** Where physical therapy care is rendered
39 records of the patient's condition and progress, together with records
40 of instruction for treatment, if any, shall be maintained by the phys-
41 ical therapist and physician. Said records shall be submitted to the
42 chair on such forms and at such times as the chair may require.

43 § 3. This act shall take effect on the one hundred eightieth day after
44 it shall have become a law.

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S5209

SPONSOR: PADAVAN

TITLE OF BILL: An act to amend the workers' compensation law, in relation to the establishment of rates of payment and delivery of health care services

PURPOSE: To require the Workers' Compensation Board to annually prepare and establish rate schedules for health care rendered under the workers' compensation system and to allow carriers and employers the option to cover physical therapy care rendered without a referral.

SUMMARY OF PROVISIONS: Section 1 of the bill requires the Workers' Compensation Board to annually prepare and establish rate schedules for health care rendered under the workers' compensation system. Section 2 of the bill allows carriers and employers the opportunity to cover physical therapy services commensurate with the education law that defines safe effective physical therapy practice. Section 3 is the effective date.

JUSTIFICATION: The Workers' Compensation Board has not adjusted rates of payment for health care providers for ten years. Today, New York's rates are the lowest or near the lowest in the country for many health care services. Payments for health care services rendered pursuant to the workers' compensation system do not reflect the current cost for providing health care, including increased labor, property and energy costs. As a result, numerous providers no longer participate in the worker compensation system and those that do struggle to maintain quality services in light of the low payment levels. The bill would require the Workers' Compensation Board to undertake the process of examining the appropriateness of rates of payment annually, something the Board currently is not required to do. The bill would not require the Workers' Compensation Board to increase rates of payment for health care services

The bill also would provide employers and carriers the option to cover episodes of physical therapy care which occur without a referral. In 2006, New York became the 43rd state to allow patients the option to see a physical therapist directly without first having to obtain a referral from a physician or other authorized health care provider. Studies have shown that the practice of direct access to physical therapy decreases cost and improves outcomes. The practice has not increased costs or malpractice in any jurisdiction that allows direct access, the first state having allowed direct access in the 1950's. Direct access to physical therapy services will improve the care under the workers' compensation system since it will reduce the time between injury and treatment and studies have shown that the shorter the duration between injury and treatment the better the outcome and the faster the worker will return to work. Unlike the insurance law, the workers' compensation law does not allow coverage of episodes of care which occur without a referral. This bill would provide carriers and employers with the flexibility to cover physical therapy services occurring without a referral if they deem such coverage is in the best interest of workers and employers.

LEGISLATIVE HISTORY: New bill.

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: Immediately.