

1 AN ACT relating to workers compensation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 342.020 is amended to read as follows:

- 4 (1) In addition to all other compensation provided in this chapter, the employer shall
5 pay for the cure and relief from the effects of an injury or occupational disease the
6 medical, surgical, and hospital treatment, including nursing, medical, and surgical
7 supplies and appliances, as may reasonably be required at the time of the injury and
8 thereafter for the length of time set forth in this section, or as may be required for
9 the cure and treatment of an occupational disease.
- 10 (2) In claims resulting in an award of permanent total disability or resulting from an
11 injury described in subsection (9) of this section, the employer's obligation to pay
12 the benefits specified in this section shall continue for so long as the employee is
13 disabled regardless of the duration of the employee's income benefits.
- 14 (3) (a) In all permanent partial disability claims not involving an injury described in
15 subsection (9) of this section, the employer's obligation to pay the benefits
16 specified in this section shall continue for seven hundred eighty (780) weeks
17 from the date of injury or date of last exposure.
- 18 (b) In all permanent partial disability claims not involving an injury described in
19 subsection (9) of this section, the commissioner shall, in writing, advise the
20 employee of the right to file an application for the continuation of benefits as
21 described in this section. This notice shall be made to the employee seven
22 hundred fifty-four (754) weeks from the date of injury or last exposure.
- 23 (c) An employee shall receive a continuation of benefits as described in this
24 section for additional time beyond the period provided in paragraph (a) of this
25 subsection as long as continued medical treatment is reasonably necessary and
26 related to the work injury or occupational disease if:
- 27 1. An application is filed within seventy-five (75) days prior to the

- 1 termination of the seven hundred eighty (780) week period;
- 2 2. The employee demonstrates that continued medical treatment is
- 3 reasonably necessary and related to the work injury or occupational
- 4 disease; and
- 5 3. An administrative law judge determines and orders that continued
- 6 benefits are reasonably necessary and related to the work injury or
- 7 occupational disease for additional time beyond the original seven
- 8 hundred eighty (780) week period provided in paragraph (a) of this
- 9 subsection.

10 (d) If the administrative law judge determines that medical benefits are not

11 reasonably necessary or not related to the work injury or occupational disease,

12 or if an employee fails to make proper application for continued benefits

13 within the time period provided in paragraph (c) of this subsection, any future

14 medical treatment shall be deemed to be unrelated to the work injury and the

15 employer's obligation to pay medical benefits shall cease permanently.

16 (4) (a) In the absence of designation of a managed health care system by the

17 employer, the employee may select medical providers to treat his injury or

18 occupational disease. Even if the employer has designated a managed health

19 care system, the injured employee may elect to continue treating with a

20 physician who provided emergency medical care or treatment to the

21 employee.

22 (b) After the carrier accepts the claim as compensable or an administrative law

23 judge makes an initial determination of compensability, whichever occurs

24 first, the employer, insurer, or payment obligor acting on behalf of the

25 employer~~[-]~~ shall make all payments for services rendered to an employee

26 directly to the provider of the services within thirty (30) days of receipt of a

27 statement for services. The commissioner shall promulgate administrative

1 regulations establishing conditions under which the thirty (30) day period for
2 payment may be tolled.

3 (c) After the injured worker and the medical provider receive notice from the
4 employer, insurer, or payment obligor that the claim has been determined to
5 compensable, or an administrative law judge makes an initial determination
6 of compensability, whichever occurs first, the provider of medical services
7 shall submit the statement for services within forty-five (45) days of the day
8 treatment is initiated and every forty-five (45) days thereafter, if appropriate,
9 as long as medical services are rendered.

10 (d) To be effective under paragraphs (b) and (c) of this subsection, notice
11 regarding compensability of a claim shall provide the injured worker and
12 the medical provider with all necessary information about the manner in
13 which a statement for services is to be submitted.

14 (e) Except as provided in subsection (7) of this section, in no event shall a
15 medical fee exceed the limitations of an adopted medical fee schedule or other
16 limitations contained in KRS 342.035, whichever is lower. The commissioner
17 may promulgate administrative regulations establishing the form and content
18 of a statement for services and procedures by which disputes relative to the
19 necessity, effectiveness, frequency, and cost of services may be resolved.

20 (5) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
21 medical services and treatment provided under this chapter shall not be subject to
22 copayments or deductibles.

23 (6) Employers may provide medical services through a managed health care system.
24 The managed health care system shall file with the Department of Workers' Claims
25 a plan for the rendition of health care services for work-related injuries and
26 occupational diseases to be approved by the commissioner pursuant to
27 administrative regulations promulgated by the commissioner.

- 1 (7) All managed health care systems rendering medical services under this chapter shall
2 include the following features in plans for workers' compensation medical care:
- 3 (a) Copayments or deductibles shall not be required for medical services rendered
4 in connection with a work-related injury or occupational disease;
- 5 (b) The employee shall be allowed choice of provider within the plan;
- 6 (c) The managed health care system shall provide an informal procedure for the
7 expeditious resolution of disputes concerning rendition of medical services;
- 8 (d) The employee shall be allowed to obtain a second opinion, at the employer's
9 expense, from an outside physician if a managed health care system physician
10 recommends surgery;
- 11 (e) The employee may obtain medical services from providers outside the
12 managed health care system, at the employer's expense, when treatment is
13 unavailable through the managed health care system;
- 14 (f) The managed health care system shall establish procedures for utilization
15 review of medical services to assure that a course of treatment is reasonably
16 necessary; diagnostic procedures are not unnecessarily duplicated; the
17 frequency, scope, and duration of treatment is appropriate; pharmaceuticals
18 are not unnecessarily prescribed; and that ongoing and proposed treatment is
19 not experimental, cost ineffective, or harmful to the employee; and
- 20 (g) Statements for services shall be audited regularly to assure that charges are
21 not duplicated and do not exceed those authorized in the applicable fee
22 schedules.
- 23 (h) A schedule of fees for all medical services to be provided under this chapter
24 which shall not be subject to the limitations on medical fees contained in this
25 chapter.
- 26 (i) Restrictions on provider selection imposed by a managed health care system
27 authorized by this chapter shall not apply to emergency medical care.

- 1 (8) Except for emergency medical care, medical services rendered pursuant to this
2 chapter shall be under the supervision of a single treating physician or physicians'
3 group having the authority to make referrals, as reasonably necessary, to
4 appropriate facilities and specialists. The employee may change his designated
5 physician one (1) time and thereafter shall show reasonable cause in order to
6 change physicians.
- 7 (9) When a compensable injury or occupational disease results in the amputation or
8 partial amputation of an arm, hand, leg, or foot, or the loss of hearing, or the
9 enucleation of an eye or loss of teeth, or permanent total or permanent partial
10 paralysis, the employer shall pay for, in addition to the other medical, surgical, and
11 hospital treatment enumerated in subsection (1) and this subsection, a modern
12 artificial member and, where required, proper braces as may reasonably be required
13 at the time of the injury and thereafter during disability.
- 14 (10) Upon motion of the employer, with sufficient notice to the employee for a response
15 to be filed, if it is shown to the satisfaction of the administrative law judge by
16 affidavits or testimony that, because of the physician selected by the employee to
17 treat the injury or disease, or because of the hospital selected by the employee in
18 which treatment is being rendered, that the employee is not receiving proper
19 medical treatment and the recovery is being substantially affected or delayed; or
20 that the funds for medical expenses are being spent without reasonable benefit to
21 the employee; or that because of the physician selected by the employee or because
22 of the type of medical treatment being received by the employee that the employer
23 will substantially be prejudiced in any compensation proceedings resulting from the
24 employee's injury or disease; then the administrative law judge may allow the
25 employer to select a physician to treat the employee and the hospital or hospitals in
26 which the employee is treated for the injury or disease. No action shall be brought
27 against any employer subject to this chapter by any person to recover damages for

1 malpractice or improper treatment received by any employee from any physician,
2 hospital, or attendant thereof.

3 (11) An employee who reports an injury alleged to be work-related or files an
4 application for adjustment of a claim shall execute a waiver and consent of any
5 physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect
6 to any condition or complaint reasonably related to the condition for which the
7 employee claims compensation. Notwithstanding any other provision in the
8 Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist,
9 hospital, or health care provider shall, within a reasonable time after written request
10 by the employee, employer, workers' compensation insurer, special fund, uninsured
11 employers' fund, or the administrative law judge, provide the requesting party with
12 any information or written material reasonably related to any injury or disease for
13 which the employee claims compensation.

14 (12) When a provider of medical services or treatment, required by this chapter, makes
15 referrals for medical services or treatment by this chapter, to a provider or entity in
16 which the provider making the referral has an investment interest, the referring
17 provider shall disclose that investment interest to the employee, the commissioner,
18 and the employer's insurer or the party responsible for paying for the medical
19 services or treatment, within thirty (30) days from the date the referral was made.

20 (13) (a) Except as provided in paragraphs (b) and (c) of this subsection, the employer,
21 insurer, or payment obligor shall not be liable for urine drug screenings of
22 patients in excess of:

- 23 1. One (1) per year for a patient considered to be low-risk;
- 24 2. Two (2) per year for a patient considered to be moderate-risk; and
- 25 3. Four (4) per year for patients considered to be high-risk;

26 based upon the screening performed by the treating medical provider and
27 other pertinent factors.

- 1 (b) The employer, insurer, or payment obligor may be liable for urine drug
2 screening at each office visit for patients that have exhibited aberrant behavior
3 documented by multiple lost prescriptions, multiple requests for early refills
4 of prescriptions, multiple providers prescribing or dispensing opioids or
5 opioid substitutes as evidenced by the electronic monitoring system
6 established in KRS 218A.202 or a similar system, unauthorized dosage
7 escalation, or apparent intoxication.
- 8 (c) The employer, insurer, or payment obligor may request additional urine drug
9 screenings which shall not count toward the maximum number of drug
10 screenings enumerated in paragraph (a) of this subsection.
- 11 (d) The commissioner shall promulgate administrative regulations related to urine
12 drug screenings as part of the practice parameters or treatment guidelines
13 required under KRS 342.035.
- 14 (14) (a) As used in this subsection, "practice of pharmacy" has the same meaning as in
15 KRS 315.010.
- 16 (b) In addition to all other compensation that may be reimbursed to a pharmacist
17 under this chapter, the employer, insurer, or payment obligor shall be liable
18 for the reimbursement of a pharmacist for a service or procedure at a rate not
19 less than that provided to other nonphysician practitioners if the service or
20 procedure:
 - 21 1. Is within the scope of the practice of pharmacy;
 - 22 2. Would otherwise be compensable under this chapter if the service or
23 procedure were provided by a:
 - 24 a. Physician;
 - 25 b. Advanced practice registered nurse; or
 - 26 c. Physician assistant; and
 - 27 3. Is performed by the pharmacist in strict compliance with laws and

1 administrative regulations related to the pharmacist's license.