

Regular Session, 2013

HOUSE BILL NO. 450

BY REPRESENTATIVE IVEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WORKERS COMPENSATION: Provides with respect to the medical treatment schedule

1 AN ACT

2 To amend and reenact R.S. 23:1203.1(A), (J), (K), and (M) and to enact R.S. 23:1203.1.1,
3 relative to the workers' compensation medical treatment schedule; to provide with
4 respect to the medical advisory council; to provide with respect to the medical
5 director; to provide for an associate medical director; to provide with respect to his
6 qualifications; to provide definitions; to provide for supporting scientific evidence
7 for treatment; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 23:1203.1(A), (J), (K), and (M) are hereby amended and reenacted
10 and R.S. 23:1203.1.1 is hereby enacted to read as follows:

11 §1203.1. ~~Medical Definitions;~~ medical treatment schedule; medical advisory council

12 A. For use in this Section, the following terms shall have the following
13 meanings, unless clearly indicated otherwise by the context:

14 (1) "Associate medical director" means a physician who is licensed to
15 practice medicine in the state of Louisiana and has been chosen by the director of the
16 office of workers' compensation administration pursuant to Subparagraph (F)(5)(a)
17 of this Section.

18 (2) "Council" means the medical advisory council appointed by the director
19 of the office of workers' compensation administration.

1 ~~(2)~~ (3) "Director" means the director of the office of workers' compensation
2 administration.

3 (4) "Medical director" means a physician who is licensed to practice
4 medicine in the state of Louisiana and has been chosen by the director of the office
5 of workers' compensation administration pursuant to Subparagraph (F)(5)(a) of this
6 Section.

7 ~~(3)~~ (5) "Office" means the office of workers' compensation administration
8 of the Louisiana Workforce Commission.

9 ~~(4)~~ (6) "Schedule" means the medical treatment schedule to be developed by
10 the council and promulgated by the office and the director.

11 * * *

12 J.(1) After a medical provider has submitted to the payor the request for
13 authorization and the information required by the Louisiana Administrative Code,
14 Title 40, Chapter 27, the payor shall notify the medical provider of their action on
15 the request within five business days of receipt of the request. If any dispute arises
16 after January 1, 2011, as to whether the recommended care, services, or treatment is
17 in accordance with the medical treatment schedule, or whether a variance from the
18 medical treatment schedule is reasonably required as contemplated in Subsection I
19 of this Section, any aggrieved party shall file, within fifteen calendar days, an appeal
20 with the office of workers' compensation administration medical director or associate
21 medical director on a form promulgated by the director. The medical director or
22 associate medical director shall render a decision as soon as is practicable, but in no
23 event, not more than thirty calendar days from the date of filing.

24 (2) If either party, the medical director, or associate medical director believes
25 that a potential conflict of interest exists, they shall communicate in writing such
26 information to the director, who shall make a determination as to whether a conflict
27 exists within forty-eight hours. The director shall notify in writing the patient, the
28 physician, and, if applicable, the attorney of his decision within forty-eight hours.

1 K. After the issuance of the decision by the medical director or associate
 2 medical director of the office, any party who disagrees with the ~~medical director's~~
 3 decision, may then appeal by filing a "Disputed Claim for Compensation", which is
 4 LWC Form 1008. The decision ~~of the medical director~~ may be overturned when it
 5 is shown, by clear and convincing evidence, the decision of the medical director or
 6 associate medical director was not in accordance with the provisions of this Section.

7 * * *

8 M.(1) With regard to all treatment not covered by the medical treatment
 9 schedule promulgated in accordance with this Section, all medical care, services, and
 10 treatment shall be in accordance with Subsection D of this Section.

11 (2) Notwithstanding any other provision of this Chapter, all treatment not
 12 specified in the medical treatment schedule and not found in Subsection D of this
 13 Section shall be due by the employer when it is demonstrated to the medical director,
 14 in accordance with the principles of Subsection C of this Section, that a
 15 preponderance of the scientific medical evidence supports approval of the treatment
 16 that is not covered.

17 * * *

18 §1203.1.1. Medical director and associate medical director

19 A. The director shall hire a medical director and an associate medical
 20 director to render decisions on disputed cases filed pursuant to R.S. 23:1203.1(J).

21 B. The medical director and associate medical director shall be full-time
 22 public employees of the office of workers' compensation administration and shall not
 23 engage in the practice of medicine outside the office.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ivey

HB No. 450

Abstract: Provides for an associate medical director and for procedure for medical treatment not specifically addressed in the medical treatment guidelines.

Present law provides procedure for submitting claims for workers' compensation reimbursement.

Present law (R.S. 23:1203.1(J)) provides that if a dispute arises regarding medical care, the aggrieved party shall file an appeal with the office of workers' compensation administration (OWCA) medical director.

Proposed law authorizes the director to hire an associate medical director and provides for his qualifications.

Proposed law defines associate medical director and medical director.

Proposed law provides that if a conflict of interest exists among any party to the suit, the director or the associate medical director, that the conflict shall be communicated, in writing, to the director, who shall make a determination within 48 hours on whether a conflict exists.

Proposed law requires that in the event of a conflict of interest, the director shall notify the patient, the physician, and if represented, the attorney, within 48 hours.

Present law (R.S. 23:1203.1(M)) provides that all medical treatment not covered by the medical treatment schedule shall be in accordance with present law (R.S. 23:1203.1(D)).

Present law (R.S. 23:1203.1(D)) provides that medical treatment guidelines shall be based on the following criteria:

- (1) Rely on specified, comprehensive, and ongoing systematic medical literature review.
- (2) Contain published criteria for rating studies and for determining the overall strength of the medical evidence, including the size of the sample, whether the authors and researchers had any financial interest in the product or service being studied, the design of the study and identification of any bias, and the statistical significance of the study.
- (3) Are current and the most recent version produced, which shall mean that documented evidence can be produced or verified that the guideline was developed, reviewed, or revised within the previous five years.
- (4) Are interdisciplinary and address the frequency, duration, intensity, and appropriateness of treatment procedures and modalities for all disciplines commonly performing treatment of employment-related injuries and diseases.
- (5) Are, by statute or rule, adopted by any other state regarding medical treatment for workers' compensation injuries, diseases, or conditions.

Proposed law retains present law and further provides that in instances in which a treatment is not covered by the medical treatment schedule, the employer is liable to pay when it has

been demonstrated by a preponderance of scientific evidence to the medical director, in accordance with present law (R.S. 23:1203.1(C), that the treatment is appropriate.

(Amends R.S. 23:1203.1(A), (J), (K), and (M); Adds R.S. 23:1203.1.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill.

1. Provided that if there is a conflict of interest between any party to the appeal and any medical director, that OWCA shall contract with other medical directors.
2. Provided that when treatment is not covered by the medical treatment schedule, payment is due by the employer when the employee can demonstrate to the medical director, by preponderance of the scientific evidence, and in accordance with present law, which provides for best available external clinical evidence from systematic research, that treatment is appropriate.

House Floor Amendments to the engrossed bill.

1. Allowed the director to hire an associate medical director.
2. Defined "associate medical director" and "medical director".
3. Provided for the qualifications of the medical director and associate medical director.
4. Deleted the provisions relative to the director's ability to contract with other medical directors.
5. Provided that if a conflict of interest exists among any party to the suit, the director or the associate medical director, that the conflict shall be communicated, in writing, to the director, who shall make a determination within 48 hours on whether a conflict exists.
6. Required that in the event of a conflict of interest, the director shall notify the patient, the physician, and if represented, the attorney, within 48 hours.