

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

SENATE BILL 440

4
5 By: Senator Simes
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For An Act To Be Entitled

8
9 AN ACT TO AMEND ARKANSAS CODE 11-9-508(d) AND 11-9-514
10 CONCERNING THE RIGHT OF AN INJURED EMPLOYEE TO CHOOSE
11 A PHYSICIAN UNDER THE WORKERS' COMPENSATION LAW; AND
12 FOR OTHER PURPOSES.
13

Subtitle

14
15 AN ACT TO AMEND ARKANSAS CODE 11-9-508
16 (d) AND 11-9-514 CONCERNING THE RIGHT OF
17 AN INJURED EMPLOYEE TO CHOOSE A
18 PHYSICIAN UNDER THE WORKERS'
19 COMPENSATION LAW.
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code 11-9-508(d), concerning an injured employee's
25 right to choose a physician, is amended to read as follows:

26 (d) For the purpose of establishing and implementing a system of
27 managed health care, the commission is authorized to:

28 (1) Develop rules and regulations for the certification of
29 managed care entities to provide managed care to injured workers;

30 (2) Develop regulations for peer review, service utilization, and
31 resolution of medical disputes;

32 (3) Prohibit "balanced billing" from the employee, employer, or
33 carrier;

34 (4) Establish fees for medical services as provided for in Rule
35 30 and its amendments. The commission shall make no distinction in approving
36 fees from different classes of medical service providers or health care

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1 providers for provision of the same or essentially similar medical services or
 2 health care services as defined herein; and

3 (5)(A) Give the ~~employer~~ injured employee the right to choose the
 4 initial treating physician, ~~with the injured employee having the right to~~
 5 ~~petition the commission for a one-time only change of physician to one who is~~
 6 ~~associated with a managed care entity certified by the commission or is who~~
 7 shall be the regular treating physician of the employee who maintains the
 8 employee's medical records and with whom the employee has a bona fide doctor-
 9 patient relationship demonstrated by a history of regular treatment prior to
 10 the onset of the compensable injury, but only if the primary care physician
 11 agrees to refer the employee to a certified managed care entity for any
 12 specialized treatment, including physical therapy, and only if such primary
 13 care physician agrees to comply with all the rules, terms, and conditions
 14 regarding services performed by the managed care entity initially chosen by
 15 the employer.

16 (B)(i) The injured employee has the right to petition the
 17 commission for a one-time only change of physician to one who is associated
 18 with a managed care entity certified by the commission.

19 (ii) A petition for change of physician shall be
 20 expedited by the commission.

21
 22 SECTION 2. Arkansas Code 11-9-514 is amended to read as follows:

23 11-9-514. Medical services and supplies - Change of physician.

24 (a)(1) ~~If the~~ After an employee selects a physician, and the Workers'
 25 Compensation Commission ~~shall not authorize~~ has authorized a change of
 26 physician under § 11-9-508, an additional change of physician is not
 27 authorized unless ~~the employee first establishes to the satisfaction of the~~
 28 ~~commission that there is a compelling reason or circumstance justifying a~~
 29 ~~change~~ the change desired by the claimant is to a chiropractic physician,
 30 optometrist, or podiatrist.

31 (2)(A) ~~If the employer selects a physician, the claimant may~~
 32 ~~petition the commission one (1) time only for a change of physician, and if~~
 33 ~~the commission approves the change with or without a hearing, the commission~~
 34 ~~shall determine the second physician and shall not be bound by recommendations~~
 35 ~~of claimant or respondent.~~

36 (B) ~~However, if the change desired by the claimant is to a~~

1 ~~chiropractic physician, optometrist, or podiatrist, the claimant may make the~~
 2 ~~change by giving advance written notification to the employer or carrier.~~

3 ~~(3) Following establishment of an Arkansas managed care system as~~
 4 ~~provided in § 11-9-508, subdivisions (a)(1) and (2) of this section shall~~
 5 ~~become null and void, and thereafter:~~

6 ~~(A)(i) The employer shall have the right to select the~~
 7 ~~initial primary care physician from among those associated with managed care~~
 8 ~~entities certified by the commission as provided in § 11-9-508.~~

9 ~~(ii) Where the employer has contracted with a managed~~
 10 ~~care organization certified by the commission, the claimant employee, however,~~
 11 ~~shall be allowed to change physicians by petitioning the commission one (1)~~
 12 ~~time only for a change of physician to a physician who must either be~~
 13 ~~associated with the managed care entity chosen by the employer or be the~~
 14 ~~regular treating physician of the employee who maintains the employee's~~
 15 ~~medical records and with whom the employee has a bona fide doctor-patient~~
 16 ~~relationship demonstrated by a history of regular treatment prior to the onset~~
 17 ~~of the compensable injury, but only if the primary care physician agrees to~~
 18 ~~refer the employee to the managed care entity chosen by the employer for any~~
 19 ~~specialized treatment, including physical therapy, and only if such primary~~
 20 ~~care physician agrees to comply with all the rules, terms, and conditions~~
 21 ~~regarding services performed by the managed care entity chosen by the~~
 22 ~~employer.~~

23 ~~(iii) Where the employer does not have a contract~~
 24 ~~with a managed care organization certified by the commission, the claimant~~
 25 ~~employee, however, shall be allowed to change physicians by petitioning the~~
 26 ~~commission one (1) time only for a change of physician, to a physician who~~
 27 ~~must either be associated with any managed care entity certified by the~~
 28 ~~commission or be the regular treating physician of the employee who maintains~~
 29 ~~the employee's medical records and with whom the employee has a bona fide~~
 30 ~~doctor-patient relationship demonstrated by a history of regular treatment~~
 31 ~~prior to the onset of the compensable injury, but only if the primary care~~
 32 ~~physician agrees to refer the employee to a physician associated with any~~
 33 ~~managed care entity certified by the commission for any specialized treatment,~~
 34 ~~including physical therapy, and only if such primary care physician agrees to~~
 35 ~~comply with all the rules, terms, and conditions regarding services performed~~
 36 ~~by any managed care entity certified by the commission.~~

1 ~~(B)~~(2) A petition for change of physician shall be
2 expedited by the commission.

3 (b) Treatment or services furnished or prescribed by any physician
4 other than the ones selected according to the foregoing, except emergency
5 treatment, shall be at the claimant's expense.

6 (c)(1) After being notified of an injury, the employer or insurance
7 carrier shall deliver to the employee, in person or by certified or registered
8 mail, return receipt requested, a copy of a notice, approved or prescribed by
9 the commission, which explains the employee's rights and responsibilities
10 concerning change of physician.

11 (2) If, after notice of injury, the employee is not furnished a
12 copy of the notice, the change of physician rules do not apply.

13 (3) Any unauthorized medical expense incurred after the employee
14 has received a copy of the notice shall not be the responsibility of the
15 employer.

16 (d) A request for a hearing on a change of physician by ~~either the~~
17 ~~employer or~~ the injured employee shall be given preference on the commission's
18 docket over all other matters.

19 ~~(e) Cooperation on the part of both the injured employee and the~~
20 ~~employer in an effort to select another physician is encouraged.~~

21 ~~(f)~~(e) When compensability is controverted, subsection (b) of this
22 section shall not apply if:

23 (1) The employee requests medical assistance in writing prior to
24 seeking the same as a result of an alleged compensable injury; and

25 ~~(2) The employer refuses to refer the employee to a medical~~
26 ~~provider within forty eight (48) hours after such written request as provided~~
27 ~~above; and~~

28 ~~(3)~~(2) The alleged injury is later found to be a compensable
29 injury; ~~and~~

30 ~~(4) The employer has not made a previous offer of medical~~
31 ~~treatment.~~

32 ~~(g)~~(f) The commission shall by regulation require the inclusion of the
33 information set forth in subsection (e) of this section on all A-6 forms.

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