

SENATE BILL NO. 367

BY SENATOR RISER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

To amend and reenact R.S. 23:1123, 1142(A) and (B)(1), 1203(E), 1307, and 1317.1(A), relative to workers' compensation; to provide relative to independent medical examinations; to provide that certain information be given to certain injured workers; to provide relative to utilization review companies; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1123, 1142(A) and (B)(1), 1203(E), 1307, and 1317.1(A) are hereby amended and reenacted to read as follows:

§1123. Disputes as to condition **or** capacity to work, ~~or current medical treatment of employee~~; examination under supervision of the director

If any dispute arises as to the condition of the employee, **or the employee's** capacity to work, ~~or the current medical treatment for the employee~~, the director, upon application of any party, shall order an examination of the employee to be made by a medical practitioner selected and appointed by the director. The medical examiner shall report his conclusions from the examination to the director and to the parties and such report shall be prima facie evidence of the facts therein stated in any subsequent proceedings under this Chapter.

\* \* \*

§1142. Approval of health care providers; fees

A. Definitions. For the purposes of this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Payor" shall mean the entity responsible, whether by law or contract, for the payment of the medical expenses incurred by a claimant as a result of a work related injury.

1                    (2) "Utilization review company" shall mean the company or entity  
 2                    which contracts with the payor, and which entity reviews the claimant's medical  
 3                    records and information and makes the determination of medical necessity in  
 4                    accordance with this Chapter, for the purposes of assisting the payor with the  
 5                    authorization of the claimant's medical care, services and treatment requested  
 6                    pursuant to this Chapter.

7                    B. Nonemergency care. (1)(a) Except as provided herein, each health care  
 8                    provider may not incur more than a total of seven hundred fifty dollars in  
 9                    nonemergency diagnostic testing or treatment without the mutual consent of the  
 10                    payor and the employee as provided by regulation. Except as provided herein, that  
 11                    portion of the fees for nonemergency services of each health care provider in excess  
 12                    of seven hundred fifty dollars shall not be an enforceable obligation against the  
 13                    employee or the employer or the employer's workers' compensation insurer unless  
 14                    the employee and the payor have agreed upon the diagnostic testing or treatment by  
 15                    the health care provider.

16                    (b)(i) The payor may contract with a utilization review company to assist  
 17                    the payor in determining if the request for nonemergency diagnostic testing or  
 18                    treatment, in an amount which exceeds seven hundred fifty dollars, is a medical  
 19                    necessity as provided pursuant to this Chapter.

20                    (ii) A medical necessity determination by a utilization review company  
 21                    and the payor's consent to authorize the requested nonemergency diagnostic  
 22                    testing and treatment shall require only a review of the claimant's medical  
 23                    records and shall not require an examination of the employee.

24                    \*           \*           \*

25                    §1203. Duty to furnish medical and vocational rehabilitation expenses; prosthetic  
 26                    devices; other expenses

27                    \*           \*           \*

28                    E. Upon the first ~~payment~~ request for authorization pursuant to R.S.  
 29                    23:1142(B)(1), for a claimant's medical care, service, or treatment, the payor, as  
 30                    defined in R.S. 23:1142(A)(1), shall communicate to the claimant information, in

1 plain language, regarding the procedure for requesting an independent medical  
 2 examination in the event a dispute arises as to the condition of the employee or the  
 3 employee's capacity to work, and the procedure for appealing the denial of  
 4 medical treatment to the medical director as provided in R.S. 23:1203.1. A  
 5 payor shall not deny medical care, service, or treatment to a claimant unless the  
 6 payor can document a reasonable and diligent effort in communicating such  
 7 information. A payor who denies medical care, service, or treatment without making  
 8 such an effort may be fined an amount not to exceed five hundred dollars or the cost  
 9 of the medical care, service, or treatment, whichever is more.

10 \* \* \*

11 §1307. Information to injured employee

12 Upon receipt of notice of injury from the employer or other indication of an  
 13 injury reportable under R.S. 23:1306, the office shall mail immediately to the injured  
 14 employee and employer a brochure which sets forth in clear understandable language  
 15 a summary statement of the rights, benefits, and obligations of employers and  
 16 employees under this Chapter, together with an explanation of the operations of the  
 17 office, and shall invite the employer and employee to seek the advice of the office  
 18 with reference to any question or dispute which the employee has concerning the  
 19 injury. Such brochure shall specifically state the procedure for requesting an  
 20 independent medical examination in the event a dispute arises as to the condition of  
 21 the employee or the employee's capacity to work and the procedure for  
 22 appealing the denial of medical treatment to the medical director as provided  
 23 in R.S. 23:1203.1. If such brochure has previously been mailed to an employer  
 24 within the calendar year, the office shall not mail such employer an additional  
 25 brochure unless the employer specifically requests such.

26 \* \* \*

27 §1317.1. Independent medical examinations

28 A. Any party wishing to request an independent medical examination of the  
 29 claimant pursuant to R.S. 23:1123; and 1124.1, ~~and 1291(B)(10) and (11)~~ shall be  
 30 required to make its request at or prior to the pretrial conference. Requests for

1 independent medical examinations made after that time shall be denied except for  
2 good cause or if it is found to be in the best interest of justice to order such  
3 examination.

4 \* \* \*

---

PRESIDENT OF THE SENATE

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_