2015 Regular Session

HOUSE BILL NO. 205

BY REPRESENTATIVE GAINES

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 |
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| 2 | To amend and reenact R.S. 23:1203.1(J)(1) and (K), relative to the workers' compensation |
| 3 | medical treatment schedule; to provide with respect to the procedure and time |
| 4 | periods for determining disputes; to provide for appeals to the medical director; and |
| 5 | to provide for related matters. |
| 6 | Be it enacted by the Legislature of Louisiana: |
| 7 | Section 1. R.S. 23:1203.1(J)(1) and (K) are hereby amended and reenacted to read |
| 8 | as follows: |
| 9 | §1203.1. Definitions; medical treatment schedule; medical advisory council; |
| 10 | appellate procedure |
| 11 | * * * |
| 12 | $J_{i}(1)(a)$ After a medical provider has submitted to the payor the request for |
| 13 | authorization and along with the information required by the Louisiana |
| 14 | Administrative Code, Title 40, Chapter 27, the payor shall notify the medical |
| 15 | provider of their his action on the request within five business days of receipt of the |
| 16 | request. If any dispute arises after January 1, 2011, as to whether the recommended |
| 17 | care, services, or treatment is in accordance with the medical treatment schedule, or |
| 18 | whether a variance from the medical treatment schedule is reasonably required as |
| 19 | contemplated in Subsection I of this Section, any aggrieved party shall file, within |
| 20 | fifteen calendar days, an appeal within thirty calendar days of the written notice of |

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

| 1 | denial with the office of workers' compensation administration medical director or | | |
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| 2 | associate medical director on a form promulgated by the director. | | |
| 3 | (b) In the event that written notice of denial is not provided within five | | |
| 4 | business days of receipt of the request, the aggrieved party may file an appeal. The | | |
| 5 | thirty-day time period for filing the appeal shall not commence until written notice | | |
| 6 | of denial has been received. | | |
| 7 | (c) The medical director or associate medical director shall render a decision | | |
| 8 | as soon as is practicable, but in no event, not more than thirty calendar days from the | | |
| 9 | date of filing. | | |
| 10 | * * *. | | |
| 11 | K.(1) After the issuance of the decision by the medical director or associate | | |
| 12 | medical director of the office, any party who disagrees with the decision, may then | | |
| 13 | may appeal by filing a "Disputed Claim for Compensation", which is LWC Form | | |
| 14 | 1008, within thirty days of the issuance of the decision. The decision may be | | |
| 15 | overturned when it is shown, by clear and convincing evidence, the decision of the | | |
| 16 | medical director or associate medical director was not in accordance with the | | |
| 17 | provisions of this Section. | | |
| 18 | (2)(a) The party who files the appeal shall notify the director that he has | | |
| 19 | done so within ten days. Within fifteen days of receiving the notice, the director | | |
| 20 | shall compile and forward the entire record that the medical director used to issue his | | |
| 21 | decision to the district hearing office. Any party to the appeal may request the | | |
| 22 | record. | | |
| 23 | (b) New evidence may be introduced, however, if it has not been previously | | |
| 24 | considered by the medical director, the workers' compensation judge shall remand | | |
| 25 | the case to the medical director for consideration of the additional evidence. | | |
| 26 | Following the remand, the medical director shall render a new decision within fifteen | | |
| 27 | days. If the medical director takes no action within fifteen days of the remand order, | | |
| 28 | the workers' compensation judge shall decide the appeal based upon the entire | | |
| 29 | record. | | |

| 1 | (c) At the hearing on the appeal, if no new evidence is introduced, the |
|---|--|
| 2 | workers' compensation judge shall either affirm or reverse the decision of the |
| 3 | medical director based upon the record that was before the medical director. |
| 4 | * * * |

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)]

| HB 205 Original | 2015 Regular Session | Gaines |
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Abstract: Provides for the procedure for determining disputes and appeals of the workers' compensation medical director's decision.

<u>Present law</u> provides that the director of the office of workers' compensation (OWCA) may hire a medical director and associate medical director to render decisions on disputed cases. <u>Present law</u> provides for the development of a medical treatment schedule based on conscientious, explicit, and judicious use of current best evidence about the care of patients. <u>Present law</u> provides that after a medical provider has submitted the required request for authorization to the payor, that the payor shall notify the provider of his action on the request within five business days.

<u>Present law</u> provides that if there is a dispute over treatment, an appeal may be filed within 15 calendar days. <u>Proposed law</u> changes the time period <u>from</u> 15 days to 30 days, and provides that the time period commences upon the written notice of denial.

<u>Proposed law</u> provides that if a written notice of denial is not provided within five business days, an appeal may be filed and that the 30 day time period does not begin until the denial has been received.

<u>Present law</u> provides that any party who disagrees with the decision of the medical director or associate medical director may file a "Disputed Claim for Compensation", which is the LWC Form 1008. <u>Proposed law</u> retains <u>present law</u> but limits the time for the filing of the 1008 to 30 days after the issuance of the decision.

<u>Proposed law</u> requires that the party who files an appeal notify the director within 10 days and that the director then must compile the record to be used for the decision within 15 days. All relevant evidence may be used at the hearing and the record shall be available to any party who requests it.

<u>Proposed law</u> requires that if new evidence is introduced, the matter is sent back to the medical director, who has 15 days to render a decision. <u>Proposed law</u> further provides that if no new evidence is introduced, or if the medical director takes no action within the allotted time frame, the workers' compensation judge may render a decision.

(Amends R.S. 23:1203.1(J)(1) and (K))