

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 76

Session of
2003

INTRODUCED BY DALLY, BAKER, BARD, BASTIAN, BEBKO-JONES,
BELFANTI, BROWNE, CAPPELLI, CAUSER, CAWLEY, COY, CREIGHTON,
CRUZ, DeWEESE, FAIRCHILD, FEESE, FICHTER, FLICK, GEIST,
GEORGE, GRUCELA, HARHAI, HARHART, HARPER, HARRIS, HORSEY,
JOSEPHS, KIRKLAND, KOTIK, LEH, LEWIS, MACKERETH, MAITLAND,
MANDERINO, MARKOSEK, MARSICO, McGEEHAN, METCALFE, R. MILLER,
MUNDY, NAILOR, PAYNE, PHILLIPS, ROSS, RUBLEY, SATHER, SAYLOR,
SCAVELLO, SHANER, SOLOBAY, R. STEVENSON, TANGRETTI, THOMAS,
TIGUE, WALKO, WATSON, WILT, YOUNGBLOOD, MAJOR, HICKERNELL,
BISHOP, WASHINGTON, PICKETT, PIPPY, YUDICHAK, GERGELY,
PETRARCA, REICHLEY, DIGIROLAMO AND GILLESPIE,
JANUARY 30, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 25, 2003

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing penalties," further defining "occupational
8 ~~disease.~~" DISEASE"; AND FURTHER PROVIDING FOR THE SCHEDULE OF <—
9 COMPENSATION.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 108(m.1) of the act of June 2, 1915
13 (P.L.736, No.338), known as the Workers' Compensation Act,
14 reenacted and amended June 21, 1939 (P.L.520, No.281) and added
15 December 20, 2001 (P.L.967, No.115), is amended to read:

16 Section 108. The term "occupational disease," as used in

1 this act, shall mean only the following diseases.

2 * * *

3 (m.1) Hepatitis C in the occupations of professional and
4 volunteer firefighters, volunteer ambulance corps personnel,
5 volunteer rescue and lifesaving squad personnel, emergency
6 medical services personnel and paramedics, Pennsylvania State
7 Police officers, Capitol Police employed by the Department of
8 General Services, Bureau of Narcotics Investigators employed by
9 the Office of Attorney General, Liquor Control Enforcement
10 Officers employed by the Pennsylvania State Police, sheriffs and
11 deputy sheriffs, police officers requiring certification under
12 53 Pa.C.S. Ch. 21 (relating to employees), and Commonwealth and
13 county correctional employes, and forensic security employes of
14 the Department of Public Welfare, having duties including care,
15 custody and control of inmates involving exposure to such
16 disease. Hepatitis C in any of these occupations shall establish
17 a presumption that such disease is an occupational disease
18 within the meaning of this act, but this presumption shall not
19 be conclusive and may be rebutted. This presumption shall be
20 rebutted if the employer has established an employment screening
21 program, in accordance with guidelines established by the
22 department in coordination with the Department of Health and the
23 Pennsylvania Emergency Management Agency and published in the
24 Pennsylvania Bulletin, and testing pursuant to that program
25 establishes that the employe incurred the Hepatitis C virus
26 prior to any job-related exposure.

27 * * *

28 SECTION 2. SECTION 306(F.1)(6) OF THE ACT, AMENDED JUNE 24, <—
29 1996 (P.L.350, NO.57), IS AMENDED TO READ:

30 SECTION 306. THE FOLLOWING SCHEDULE OF COMPENSATION IS

1 HEREBY ESTABLISHED:

2 (F.1) * * *

3 (6) EXCEPT IN THOSE CASES IN WHICH A WORKERS' COMPENSATION
4 JUDGE ASKS FOR AN OPINION FROM PEER REVIEW UNDER SECTION 420,
5 DISPUTES AS TO REASONABLENESS OR NECESSITY OF TREATMENT BY A
6 HEALTH CARE PROVIDER SHALL BE RESOLVED IN ACCORDANCE WITH THE
7 FOLLOWING PROVISIONS:

8 (I) THE REASONABLENESS OR NECESSITY OF ALL TREATMENT
9 PROVIDED BY A HEALTH CARE PROVIDER UNDER THIS ACT MAY BE SUBJECT
10 TO PROSPECTIVE, CONCURRENT OR RETROSPECTIVE UTILIZATION REVIEW
11 AT THE REQUEST OF AN EMPLOYEE, EMPLOYER OR INSURER. THE
12 DEPARTMENT SHALL AUTHORIZE UTILIZATION REVIEW ORGANIZATIONS TO
13 PERFORM UTILIZATION REVIEW UNDER THIS ACT. UTILIZATION REVIEW OF
14 ALL TREATMENT RENDERED BY A HEALTH CARE PROVIDER SHALL BE
15 PERFORMED BY A PROVIDER LICENSED IN THE SAME PROFESSION AND
16 HAVING THE SAME OR SIMILAR SPECIALTY AS THAT OF THE PROVIDER OF
17 THE TREATMENT UNDER REVIEW. ORGANIZATIONS NOT AUTHORIZED BY THE
18 DEPARTMENT MAY NOT ENGAGE IN SUCH UTILIZATION REVIEW.

19 (II) THE UTILIZATION REVIEW ORGANIZATION SHALL ISSUE A
20 WRITTEN REPORT OF ITS FINDINGS AND CONCLUSIONS WITHIN THIRTY
21 (30) DAYS OF A REQUEST.

22 (III) THE EMPLOYER OR THE INSURER SHALL PAY THE COST OF THE
23 UTILIZATION REVIEW.

24 (IV) IF THE PROVIDER, EMPLOYER, EMPLOYEE OR INSURER DISAGREES
25 WITH THE FINDING OF THE UTILIZATION REVIEW ORGANIZATION, A
26 PETITION FOR REVIEW BY THE DEPARTMENT MUST BE FILED WITHIN
27 THIRTY (30) DAYS AFTER RECEIPT OF THE REPORT. THE DEPARTMENT
28 SHALL ASSIGN THE PETITION TO A WORKERS' COMPENSATION JUDGE FOR A
29 HEARING OR FOR AN INFORMAL CONFERENCE UNDER SECTION 402.1. THE
30 UTILIZATION REVIEW REPORT AND THE MEDICAL RECORDS OF THE

1 PROVIDER WHOSE TREATMENT IS UNDER REVIEW SHALL BE PART OF THE
2 RECORD BEFORE THE WORKERS' COMPENSATION JUDGE. THE WORKERS'
3 COMPENSATION JUDGE SHALL CONSIDER THE UTILIZATION REVIEW REPORT
4 AND THE MEDICAL RECORDS OF THE PROVIDER WHOSE TREATMENT IS UNDER
5 REVIEW AS EVIDENCE BUT SHALL NOT BE BOUND BY THE REPORT OR THE
6 MEDICAL RECORDS OF THE PROVIDER WHOSE TREATMENT IS UNDER REVIEW.

7 * * *

8 Section ~~2~~ 3. This act shall take effect in 60 days.

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