
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 18 Session of
2017

INTRODUCED BY MACKENZIE, A. HARRIS, HEFFLEY, MILLARD, SIMMONS
AND TOPPER, FEBRUARY 13, 2017

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 13, 2017

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," in liability and compensation,
8 further providing for prescription drugs and the treatment of
9 work-related injuries; and, in procedure, further providing
10 for peer review.

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

13 Section 1. Section 306(f.1) (3) (vi) of the act of June 2, 1915
14 (P.L.736, No.338), known as the Workers' Compensation Act, is
15 amended by adding a provision and paragraph (6) is amended by
16 adding a subclause to read:

17 Section 306. The following schedule of compensation is
18 hereby established:

19 * * *

20 (f.1) * * *

21 (3) * * *

22 (vi) * * *

1 (J) The department shall select a nationally recognized,
2 evidence-based prescription drug formulary appropriate for
3 resolving issues related to drugs prescribed for or related to
4 the treatment of work-related injuries, including, but not
5 limited to, the type, dosage and duration of prescriptions. The
6 following shall apply:

7 (I) Within thirty (30) days of the effective date of this
8 provision, the department shall solicit public comments
9 regarding the selection of a prescription drug formulary under
10 this provision. The public comment period shall be at least
11 thirty (30) days but not more than ninety (90) days. The
12 department shall publish notice of the public comment period in
13 the Pennsylvania Bulletin.

14 (II) Within thirty (30) days after close of the public
15 comment period under subprovision (I), the department shall
16 publish notice of its selection of a prescription drug formulary
17 in the Pennsylvania Bulletin. The prescription drug formulary
18 shall take effect thirty (30) days after the publication
19 required by this subprovision.

20 (III) The department shall ensure that the current
21 prescription drug formulary is available through its publicly
22 accessible Internet website for reference by physicians and the
23 general public.

24 (IV) The prescription of drugs that is not consistent with
25 or recommended by the prescription drug formulary selected by
26 the department shall not be considered reasonable and necessary
27 for the purposes of paragraph (6).

28 * * *

29 (6) Except in those cases in which a workers' compensation
30 judge asks for an opinion from peer review under section 420,

1 disputes as to reasonableness or necessity of treatment by a
2 health care provider shall be resolved in accordance with the
3 following provisions:

4 * * *

5 (v) The department shall approve only those utilization
6 review organizations that it determines have obtained
7 certification as a utilization review entity under section 2151
8 of the Insurance Company Law of 1921.

9 * * *

10 Section 2. Section 420 of the act is amended to read:

11 Section 420. (a) The board, the department or a workers'
12 compensation judge, if it or he deem it necessary, may, of its
13 or his own motion, either before, during, or after any hearing,
14 make or cause to be made an investigation of the facts set forth
15 in the petition or answer or facts pertinent in any injury under
16 this act. The board, department or workers' compensation judge
17 may appoint one or more impartial physicians or surgeons to
18 examine the injuries of the plaintiff and report thereon, or may
19 employ the services of such other experts as shall appear
20 necessary to ascertain the facts. The workers' compensation
21 judge when necessary or appropriate or upon request of a party
22 in order to rule on requests for review filed under section
23 306(f.1), or under other provisions of this act, may ask for an
24 opinion from peer review about the reasonableness or necessity
25 [or frequency] of treatment under section 306(f.1). The peer
26 review report or the peer report of any physician, surgeon, or
27 expert appointed by the department or by a workers' compensation
28 judge, including the report of a peer review organization, shall
29 be filed with the board or workers' compensation judge, as the
30 case may be, and shall be a part of the record and open to

1 inspection as such. The workers' compensation judge shall
2 consider the report as evidence but shall not be bound by such
3 report.

4 (b) The board or workers' compensation judge, as the case
5 may be, shall fix the compensation of such physicians, surgeons,
6 and experts, and other peer review organizations which, when so
7 fixed, shall be paid out of the Workmen's Compensation
8 Administration Fund.

9 (c) Peer review performed under this section and peer review
10 organizations used under this section shall comply with the
11 requirements established under section 306(f.1)(6).

12 Section 3. This act shall take effect in 60 days.