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AND TOPPER, FEBRUARY 13, 2017

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

AN ACT

Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
reenacted and amended, "An act defining the liability of an
employer to pay damages for injuries received by an employe
in the course of employment; establishing an elective
schedule of compensation; providing procedure for the
determination of liability and compensation thereunder; and
prescribing penalties," in liability and compensation,
further providing for prescription drugs and the treatment of
work-related injuries; and, in procedure, further providing
for peer review.

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

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

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

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

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

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

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

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

* * *

(6) Except in those cases in which a workers' compensation judge asks for an opinion from peer review under section 420,
disputes as to reasonableness or necessity of treatment by a
health care provider shall be resolved in accordance with the
following provisions:

(v) The department shall approve only those utilization
review organizations that it determines have obtained
certification as a utilization review entity under section 2151

Section 2. Section 420 of the act is amended to read:
Section 420. (a) The board, the department or a workers' compensation judge, if it or he deem it necessary, may, of its or his own motion, either before, during, or after any hearing, make or cause to be made an investigation of the facts set forth in the petition or answer or facts pertinent in any injury under this act. The board, department or workers' compensation judge may appoint one or more impartial physicians or surgeons to examine the injuries of the plaintiff and report thereon, or may employ the services of such other experts as shall appear necessary to ascertain the facts. The workers' compensation judge when necessary or appropriate or upon request of a party in order to rule on requests for review filed under section 306(f.1), or under other provisions of this act, may ask for an opinion from peer review about the reasonableness or necessity [or frequency] of treatment under section 306(f.1). The peer review report or the peer report of any physician, surgeon, or expert appointed by the department or by a workers' compensation judge, including the report of a peer review organization, shall be filed with the board or workers' compensation judge, as the case may be, and shall be a part of the record and open to

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

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

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

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