

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1800 Session of 2015

INTRODUCED BY MACKENZIE, COHEN, GROVE, A. HARRIS, HEFFLEY,
McNEILL AND MILLARD, DECEMBER 18, 2015

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, DECEMBER 18, 2015

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 interpretation and definitions,
8 further providing for definitions; in liability and
9 compensation, further providing for schedule of compensation;
10 and, in procedure, further providing for investigations and
11 peer review.

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

14 Section 1. The definition of "utilization review
15 organizations" in section 109 of the act of June 2, 1915
16 (P.L.736, No.338), known as the Workers' Compensation Act,
17 reenacted and amended June 21, 1939 (P.L.520, No.281) and added
18 July 2, 1993 (P.L.190, No.44), is amended to read:

19 Section 109. In addition to the definitions set forth in
20 this article, the following words and phrases when used in this
21 act shall have the meanings given to them in this section unless
22 the context clearly indicates otherwise:

1 * * *

2 "Utilization review organizations" shall be those
3 organizations consisting of an impartial physician, surgeon or
4 other health care provider or a panel of such professionals and
5 providers as [authorized] approved by the [Secretary] Department
6 of Labor and Industry and published as a list in the form of a
7 notice in the Pennsylvania Bulletin for the purpose of reviewing
8 the reasonableness and necessity of treatment by a health care
9 provider pursuant to section 306(f.1) (6).

10 Section 2. Section 306(f.1) (6) of the act, amended June 24,
11 1996 (P.L.350, No.57), is amended to read:

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

14 * * *

15 (f.1) * * *

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

21 [(i) The reasonableness or necessity of all treatment
22 provided by a health care provider under this act may be subject
23 to prospective, concurrent or retrospective utilization review
24 at the request of an employe, employer or insurer. The
25 department shall authorize utilization review organizations to
26 perform utilization review under this act. Utilization review of
27 all treatment rendered by a health care provider shall be
28 performed by a provider licensed in the same profession and
29 having the same or similar specialty as that of the provider of
30 the treatment under review. Organizations not authorized by the

1 department may not engage in such utilization review.]

2 (i) For purposes of this section, reasonable and necessary
3 treatments, services, products or accommodations shall be those
4 treatments, services, products or accommodations that are
5 consistent with or recommended by evidence-based medical
6 treatment guidelines selected and referenced by the department
7 by publication in the Pennsylvania Bulletin. In selecting the
8 guidelines, the department shall choose from nationally
9 recognized treatment guidelines appropriate for resolving issues
10 relating to treatment for work-related injuries. The department
11 shall allow modifications from the guidelines based on a panel
12 of providers as provided in subparagraph (ii), following public
13 notice and the opportunity for comment.

14 (ii) The following shall apply:

15 (A) The secretary shall appoint a panel of medical providers
16 for the purpose of proposing modifications to the guidelines
17 referenced in subparagraph (i), including one medical provider
18 from each of the following licenses and specialties:

19 (I) Occupational medicine.

20 (II) Orthopedic medicine.

21 (III) Neurosurgical medicine.

22 (IV) Pain management.

23 (V) Physical therapy.

24 (VI) Chiropractic medicine.

25 (B) An item listed under clause (A) may include an
26 osteopathic equivalent.

27 (C) The providers under this subparagraph shall serve
28 without remuneration and shall be appointed for a six-year term.
29 The panel shall meet to review the guidelines, consider public
30 comments and recommend modifications no less than once each

1 calendar year.

2 (iii) An injured worker may challenge an employer's
3 determination of reasonableness or necessity by filing a request
4 for utilization review with a utilization review organization
5 approved by the department. The purpose of a utilization review
6 conducted pursuant to this section shall be to determine if the
7 treatment is consistent with or recommended by the treatment
8 guidelines referenced in subparagraph (i).

9 (iv) The department shall approve only those utilization
10 review organizations that it determines have satisfied the
11 criteria of a nationally recognized accrediting organization
12 referenced by the department by publication in the Pennsylvania
13 Bulletin, at a rate established by the department.

14 [~~(ii)~~] (v) The utilization review organization shall issue a
15 written report of its findings and conclusions within thirty
16 (30) days of a request.

17 [~~(iii)~~] (vi) The employer or the insurer shall pay the cost
18 of the utilization review.

19 [~~(iv)~~] (vii) If the provider, employer, employe or insurer
20 disagrees with the finding of the utilization review
21 organization, a petition for review by the department must be
22 filed within thirty (30) days after receipt of the report. The
23 department shall assign the petition to a workers' compensation
24 judge for a hearing or for an informal conference under section
25 402.1. The utilization review report shall be part of the record
26 before the workers' compensation judge. The workers'
27 compensation judge shall consider the utilization review report
28 as evidence but shall not be bound by the report.

29 * * *

30 Section 3. Section 420(a) of the act, amended June 24, 1996

1 (P.L.350, No.57), is amended and the section is amended by
2 adding a subsection to read:

3 Section 420. (a) The board, the department or a workers'
4 compensation judge, if it or he deem it necessary, may, of its
5 or his own motion, either before, during, or after any hearing,
6 make or cause to be made an investigation of the facts set forth
7 in the petition or answer or facts pertinent in any injury under
8 this act. The board, department or workers' compensation judge
9 may appoint one or more impartial physicians or surgeons to
10 examine the injuries of the plaintiff and report thereon, or may
11 employ the services of such other experts as shall appear
12 necessary to ascertain the facts. The workers' compensation
13 judge when necessary or appropriate or upon request of a party
14 in order to rule on requests for review filed under section
15 306(f.1), or under other provisions of this act, may ask for an
16 opinion from peer review about the necessity or [frequency]
17 appropriateness of treatment under section 306(f.1). The peer
18 review report or the peer report of any physician, surgeon, or
19 expert appointed by the department or by a workers' compensation
20 judge, including the report of a peer review organization, shall
21 be filed with the board or workers' compensation judge, as the
22 case may be, and shall be a part of the record and open to
23 inspection as such. The workers' compensation judge shall
24 consider the report as evidence but shall not be bound by such
25 report.

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

29 * * *

30 Section 4. This act shall take effect in 60 days.