

S T A T E O F N E W Y O R K

4302--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. CANESTRARI, CYMBROWITZ, WEISENBERG, PERRY, CASTRO, GABRYSZAK, SCHROEDER, CAMARA, JAFFEE, LIFTON, KOON, BRODSKY, SCHIMEL, BENEDETTO, FIELDS, COLTON -- Multi-Sponsored by -- M. of A. BARRA, BENJAMIN, DESTITO, ERRIGO, HEVESI, LATIMER, LAVINE, LENTOL, LUPARDO, MARKEY, McDONOUGH, McENENY, PAULIN, PHEFFER, SWEENEY, TITONE, WEINSTEIN, ZEBROWSKI -- read once and referred to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law, in relation to the establishment of rates of payment and delivery of health care services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The closing paragraph of subdivision (a) of section 13 of
2 the workers' compensation law, as amended by chapter 6 of the laws of
3 2007, is amended to read as follows:

4 The chair, IN CONSULTATION WITH THE BOARD'S MEDICAL DIRECTOR, shall
5 BIENNIALLY prepare and establish a schedule for the state, or schedules
6 limited to defined localities, of charges and fees for such medical
7 treatment and care, and including all medical, dental, surgical, optome-
8 tric or other attendance or treatment, nurse and hospital service, medi-
9 cine, optometric services, crutches, eye-glasses, false teeth, artifi-
10 cial eyes, orthotics, prosthetic devices, functional assistive and
11 adaptive devices and apparatus in accordance with and to be subject to
12 change pursuant to rules promulgated by the chair. Before preparing such
13 schedule for the state or schedules for limited localities the chair
14 shall request the president of the medical society of the state of New
15 York and the president of the New York state osteopathic medical society
16 to submit to him or her a report on the amount of remuneration deemed by
17 such society to be fair and adequate for the types of medical care to be
18 rendered under this chapter, but consideration shall be given to the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 view of other interested parties. In the case of physical therapy fees
2 schedules the chair shall request the president of [a recognized profes-
3 sional association representing physical therapists in the state of New
4 York] THE NEW YORK PHYSICAL THERAPY ASSOCIATION to submit to him or her
5 a report on the amount of remuneration deemed by such association to be
6 fair and reasonable for the type of physical therapy services rendered

7 under this chapter, but consideration shall be given to the views of
8 other interested parties. The chair shall also prepare and establish a
9 schedule for the state, or schedules limited to defined localities, of
10 charges and fees for outpatient hospital services not covered under the
11 medical fee schedule previously referred to in this subdivision, to be
12 determined in accordance with and to be subject to change pursuant to
13 rules promulgated by the chair. Before preparing such schedule for the
14 state or schedules for limited localities the chair shall request the
15 president of the hospital association of New York state to submit to him
16 or her a report on the amount of remuneration deemed by such association
17 to be fair and adequate for the types of hospital outpatient care to be
18 rendered under this chapter, but consideration shall be given to the
19 views of other interested parties. In the case of occupational therapy
20 fees schedules the chair shall request the president of a recognized
21 professional association representing occupational therapists in the
22 state of New York to submit to him or her a report on the amount of
23 remuneration deemed by such association to be fair and reasonable for
24 the type of occupational therapy services rendered under this chapter,
25 but consideration shall be given to the views of other interested
26 parties. The amounts payable by the employer for such treatment and
27 services shall be the fees and charges established by such schedule.
28 Nothing in this schedule, however, shall prevent voluntary payment of
29 amounts higher or lower than the fees and charges fixed therein, but no
30 physician rendering medical treatment or care, and no physical or occu-
31 pational therapist rendering their respective physical or occupational
32 therapy services may receive payment in any higher amount unless such
33 increased amount has been authorized by the employer, or by decision as
34 provided in section thirteen-g of this article. Nothing in this section
35 shall be construed as preventing the employment of a duly authorized
36 physician on a salary basis by an authorized compensation medical bureau
37 or laboratory.

38 S 2. Notwithstanding the provisions of section one of this act or of
39 any other law, rule or regulation to the contrary, a revision to the fee
40 schedules established pursuant to section 13 of the workers' compen-
41 sation law existing as of the effective date of this act shall be
42 published by the chair of the workers' compensation board on behalf of
43 such board no later than thirty days following the effective date of
44 this act. Subsequent biennial schedules shall be published in final form
45 on January fifteenth every other year. Nothing in this section shall
46 limit the authority of the chair of the workers' compensation board to
47 make adjustments in the fee schedule other than at the biennial publica-
48 tion.

49 S 3. This act shall take effect immediately.