Amendment No. 705

Assembly Amendment to Senate Bill No. 226 Second Reprint (BDR 53-891)
Proposed by: Committee on Commerce and Labor
Amendment Box:
Resolves Conflicts with S.B. 121.
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted ☐ Lost ☐		Adopted ☐ Lost ☐	
Concurred In ☐ Not ☐		Concurred In ☐ Not ☐	
Receded ☐ Not ☐		Receded ☐ Not ☐	

Amend sec. 2, page 3, by deleting lines 31 and 32 and inserting:

"***2. The provisions of subsection 1 apply only to treatment or other services provided by the***".

Amend sec. 2, page 3, by deleting lines 38 through 41.

Amend the bill as a whole by renumbering sec. 6 as sec. 7 and adding a new section designated sec. 6, following sec. 5, to read as follows:

"**Sec. 6.** Sections 1, 2, 3 and 4 of Senate Bill No. 121 of this session are hereby repealed.".

Amend the bill as a whole by adding the text of the repealed sections, following sec. 6, to read as follows:

“

TEXT OF REPEALED SECTIONS

Section 1. NRS 616C.135 is hereby amended to read as follows:

616C.135 1. A provider of health care who accepts a patient as a referral for the treatment of an industrial injury or an occupational disease may not charge the patient for any treatment related to the industrial injury or occupational disease, but must charge the insurer. The provider of health care may charge the patient for any services that are not related to the employee’s industrial injury or occupational disease.

2. The insurer is liable for the charges for approved services related to the industrial injury or occupational disease if the charges do not exceed:

(a) The fees established in accordance with NRS 616C.260 or the usual fee charged by that person or institution, whichever is less; and

(b) The charges provided for by the contract between the provider of health care and the insurer or the contract between the provider of health care and the organization for managed care.

3. A provider of health care may accept payment from an injured employee who is paying in protest ***or from a health or casualty insurer paying on behalf of the injured employee*** pursuant to NRS 616C.138 for treatment or other services that the injured employee alleges are related to the industrial injury or occupational disease.

4. If a provider of health care, an organization for managed care, an insurer or an employer violates the provisions of this section, the Administrator shall impose an administrative fine of not more than $250 for each violation.

Sec. 2. NRS 616C.138 is hereby amended to read as follows:

616C.138 ***1.*** If:

~~[~~1.~~]~~ ***(a)*** An insurer, an organization for managed care, a third-party administrator or an employer who provides accident benefits for injured employees pursuant to NRS 616C.265 denies authorization or responsibility for payment for treatment or other services provided by a provider of health care that the injured employee alleges are related to an industrial injury or occupational disease;

~~[~~2.~~]~~ ***(b)*** The injured employee pays in protest for the treatment or other services ~~[~~; and

~~3.~~~~]~~ ***or a health or casualty insurer pays for the treatment or other services on behalf of the injured employee; and***

(c) A hearing officer or appeals officer ultimately determines that the treatment or other services should have been covered, or the insurer, organization for managed care, third-party administrator or employer who provides accident benefits subsequently accepts responsibility for payment,

➥ the hearing officer or appeals officer shall order the insurer, organization for managed care, third-party administrator or employer who provides accident benefits to pay to the ~~[~~provider of health care~~]~~ ***injured employee or the health or casualty insurer*** the amount which ***the injured employee or the health or casualty insurer paid that*** is allowed for the treatment or other services set forth in the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted

with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract.

2. If the injured employee or the health or casualty insurer paid the provider of health care any amount in excess of the amount that the provider would have been entitled to be paid pursuant to subsection 1, the injured employee or the health or casualty insurer is entitled to recover the excess amount from the provider. Within 30 days after receiving ~~[the payment,]~~ ***notice of such an excess amount,*** the provider of health care shall reimburse the injured employee ***or the health or casualty insurer*** for the ***excess*** amount ***.*** ~~[paid in protest by him.]~~

3. As used in this section:

(a) "Casualty insurer" means an insurer or other organization providing coverage or benefits under a policy or contract of casualty insurance in the manner described in subsection 2 of NRS 681A.020.

(b) "Health insurer" means an insurer or other organization providing health coverage or benefits in accordance with state or federal law.

Sec. 3. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the hearing officer;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

3. If necessary to resolve a medical question concerning an injured employee's condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay ***to the appropriate person*** the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

7. The hearing officer shall render his decision within 15 days after:

(a) The hearing; or

(b) He receives a copy of the report from the medical examination he requested.

8. The hearing officer shall render his decision in the most efficient format developed by the Chief of the Hearings Division of the Department of Administration.

9. The hearing officer shall give notice of his decision to each party by mail. He shall include with the notice of his decision the necessary forms for appealing from the decision.

10. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

Sec. 4. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is

appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay ***to the appropriate person*** the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. The appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to give effect to his decision.”.

If this amendment is adopted, the Legislative

Counsel's Digest will be changed to read as follows:

Legislative Counsel's Digest:

Under existing law, an injured employee has a right to an administrative appeal when an entity administering a workers' compensation claim denies payment for certain treatment or other services provided to the injured employee by a health care provider. (NRS 616C.137, 616C.305, 616C.315-616C.385) The injured employee also has a right to pay in protest for the treatment or other services pending an appeal. (NRS 616C.138) If the entity administering the workers' compensation claim is found to be responsible for the payment or otherwise accepts responsibility for the payment, the entity must pay the health care provider for the costs of the treatment or other services and the health care provider must reimburse the injured employee for the amount paid in protest. (NRS 616C.138)

This bill establishes a limit on the amount that a health care provider may be paid on a claim that has been denied by the entity administering the workers' compensation claim. This bill also provides that if, on appeal, the entity administering the workers' compensation claim is found to be responsible for the payment or otherwise accepts responsibility for the payment, the entity is required to reimburse the injured employee directly or reimburse certain health insurers and casualty insurers that paid for the treatment or other services on behalf of the injured employee. This bill also allows the injured employee or insurer to recover from the health care provider any amount that it paid in excess over the amount that the health care provider was entitled to receive for the treatment or other services under the workers' compensation laws.