

CHAPTER 1118

S.B. No. 1355

AN ACT

relating to a fee schedule for medical treatment under workers' compensation laws.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 7b, Article 8306, Revised Statutes, is amended to read as follows:

Sec. 7b. *GUIDELINES FOR FEES, NECESSARY TREATMENT, AND CHARGES FOR MEDICAL AID, HOSPITAL SERVICES, CHIROPRACTIC SERVICES OR MEDICINES; INTEREST.* (a) *The board shall establish guidelines as to charges and utilization of medical services under Sections 7 and 7a of this Act.*

(b) *All fees and charges shall be fair and reasonable and shall be no more than fees and charges for similar treatment of injured persons of a like standard of living where the cost of the treatment is paid by the injured person or someone acting for the injured person.*

(c) *To facilitate the purpose of this section, the board shall establish and maintain:*

- (1) *a guideline of fair and reasonable fees and charges;*
- (2) *guidelines of necessary treatment; and*

(3) *an internal program of systematic monitoring of medical charges to ensure that the guidelines are not exceeded. An annual report shall be made to the legislature which shall indicate the degree to which the fees paid comply with the guidelines.*

(d) *The board shall adopt these guidelines as rules. The board shall give due consideration to a relative value scale in developing a guideline for fees and charges for physicians.*

(e) *The board is authorized to contract with a qualified, recognized professional organization or entity which includes as an integral part of the review process members of the category of licensee being reviewed to develop, maintain, or review the guidelines.*

(f) *The board is authorized to contract with a qualified, recognized professional organization or entity which includes as an integral part of the review process members of the category of licensee being reviewed to review a fee, charge, or treatment for compliance with a guideline. All reviews shall be done in a reasonable time but in no event to exceed 31 days.*

(g) *In developing and maintaining the guidelines for fees and charges, the board shall consider the increased security of payment afforded by this Act.*

(h) *A fee or charge consistent with the guideline for fees and charges shall earn interest at a rate computed by the Industrial Accident Board by taking the auction rate quoted on a discount basis for 52-week treasury bills issued by the United States government, as published by the Federal Reserve Board on the most recent date preceding the date of computation, from 60 days after the date the health care provider submits the bill to the association to the date the bill is paid. The rate shall be computed on December 15 and June 15 for the following six-month period beginning January 1 and July 1, respectively.*

(i) *The following special advisory committees shall be created to assist the board in establishing and maintaining the guidelines under this section:*

- (1) *the hospital care advisory committee;*
- (2) *the physician advisory committee for fees and charges;*
- (3) *the physician advisory committee for utilization;*
- (4) *the chiropractic care advisory committee;*
- (5) *the podiatric care advisory committee;*
- (6) *the physical therapy advisory committee; and*
- (7) *the pharmaceutical advisory committee.*

(j) *The board shall appoint five members to each special advisory committee who are health care providers and are licensees of that provider group who are knowledgeable and qualified in a worker's compensation practice. These members shall be appointed with the advice of the respective professional associations. The board shall also appoint four members to each advisory committee with one being a representative of the association, one being a representative of the employers, one being a representative of the employees, and one being a representative of the association of attorneys that represent claimants in workers compensation.*

(k) *A health care advisory committee shall be created to assist the board in establishing and maintaining the guidelines under this section. The committee shall have 15 members:*

- (1) *one member elected from each of the special advisory committees; and*
- (2) *eight members appointed by the board.*

(l) *The chairman of the committee shall be designated by the board. The committee shall meet at times and places determined by the chairman of the committee.*

(m) *The board shall refer any health care provider or facility to the appropriate regulatory agency for investigation and action on an allegation of repeated overutilization or overcharging.*

(n) The board is authorized to make rules necessary to implement this section including:

(1) the right to charge the association a reasonable fee for access to or evaluation of health care treatment, fees, or charges pursuant to this Act;

(2) the right to charge the health care provider who overutilizes the guideline and treatment utilization system instituted under this Act a reasonable fee for access to or evaluation of health care treatment, fees, or charges pursuant to this Act; and

(3) the right to compel production of documents as related to the board's duties under this section.

(o) It shall be presumed that all charges for services that are consistent with the guidelines adopted by the board are reasonable as to amount, and the guidelines may be admissible as evidence in any proceeding before the board or a court of competent jurisdiction.

No such presumption shall arise as to the necessity of any service or treatment.

(p) The board and the members of the board are immune from any and all liability in any action arising out of the exercise of their duties in their official capacity as a board under this section.

(q) The review of fees, charges, or treatment in individual cases shall be undertaken only after the fee, charge, or treatment has been incurred and the association has admitted liability.

(r) Any contract entered into by the Industrial Accident Board under this section shall be on a competitive-bid basis. ~~[All fees and charges under Sections 7 and 7a hereof shall be fair and reasonable, shall be subject to regulation of the Board and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living where such treatment is paid for by the injured person himself or someone acting for him. In determining what fees are reasonable, the Board may also consider the increased security of payment afforded by this law. Where such medical aid, hospital service, chiropractic service or medicines are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting the same, and the amount so paid shall be promptly reported to the Board.]~~

SECTION 2. This Act takes effect September 1, 1987.

SECTION 3. It is not intended that these amendments alter the application of Section 12e, Article 8306, Revised Statutes, to claims under the law.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 26, 1987, by a viva-voce vote; and that the Senate concurred in House amendments on June 1, 1987, by a viva-voce vote. Passed the House, with amendments, on May 30, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.