

ASSEMBLY, No. 1455

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblyman IMPREVEDUTO

1 AN ACT regarding the selection by an employee of treatment and
2 services under the workers' compensation law and amending
3 R.S.34:15-15 and R.S.34:15-23.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. R.S. 34:15-15 is amended to read as follows:

9 The employer shall furnish to the injured worker such medical,
10 surgical and other treatment, and hospital service as shall be necessary
11 to cure and relieve the worker of the effects of the injury and to
12 restore the functions of the injured member or organ where such
13 restoration is possible; provided, however, that the employer shall not
14 be liable to furnish or pay for physicians' or surgeons' services in
15 excess of \$50.00 and in addition to furnish hospital service in excess
16 of \$50.00, unless the injured worker or the worker's physician who
17 provides treatment, or any other person on the worker's behalf, shall
18 file a petition with the Division of Workers' Compensation stating the
19 need for physicians' or surgeons' services in excess of \$50.00, as
20 aforesaid, and such hospital service or appliances in excess of \$50.00,
21 as aforesaid, and the Division of Workers' Compensation after
22 investigating the need of the same and giving the employer an
23 opportunity to be heard, shall determine that such physicians' and
24 surgeons' treatment and hospital services are or were necessary, and
25 that the fees for the same are reasonable and shall make an order
26 requiring the employer to pay for or furnish the same. The mere
27 furnishing of medical treatment or the payment thereof by the
28 employer shall not be construed to be an admission of liability.

29 [If the employer shall refuse or neglect to comply with the
30 foregoing provisions of this section, the] The employee may secure, on
31 the employee's own initiative, such treatment and services as may be
32 necessary and as may come within the terms of this section, and the
33 employer shall be liable to pay therefor; provided, however, that the
34 employer shall not be liable for any amount expended by the employee

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 or by any third person on the employee's behalf for any such
2 physicians' treatment and hospital services, unless such employee or
3 any person on the employee's behalf shall have [requested the
4 employer to furnish the same and the employer shall have refused or
5 neglected so to do,] notified the employer of the employee's intent to
6 secure treatment and services or unless the nature of the injury
7 required such services, and the employer or the superintendent or
8 foreman of the employer, [having] has knowledge of such injury [shall
9 have neglected to provide the same], or unless the injury occurred
10 under such conditions as make impossible the notification of the
11 employer, or unless the circumstances are so peculiar as shall justify,
12 in the opinion of the Division of Workers' Compensation, the
13 expenditures assumed by the employee for such physicians' treatment
14 and hospital services, apparatus and appliances.

15 All fees and other charges for such physicians' and surgeons'
16 treatment and hospital treatment shall be reasonable and based upon
17 the usual fees and charges which prevail in the same community for
18 similar physicians', surgeons' and hospital services.

19 When an injured employee may be partially or wholly relieved of the
20 effects of a permanent injury, by use of an artificial limb or other
21 appliance, which phrase shall also include artificial teeth or glass eye,
22 the Division of Workers' Compensation, acting under competent
23 medical advice, is empowered to determine the character and nature
24 of such limb or appliance, and to require the employer or the
25 employer's insurance carrier to furnish the same.

26 (cf: P.L.1979, c.283, s.7)

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28 2. R.S.34:15-23 is amended to read as follows:

29 Whenever it shall appear that an employer is being prejudiced by
30 virtue of the refusal of an injured employee to accept proffered
31 medical and surgical treatment deemed necessary by the physician
32 selected by the employer or by the employee's own physician, or his
33 failure or neglect to comply with the instructions of the physician in
34 charge of the case, the employer is hereby authorized to file a petition
35 with the [workmen's compensation bureau] Division of Workers'
36 Compensation, which is hereby empowered to order proper medical
37 and surgical treatment at the expense of the employer. In the event of
38 refusal or neglect by the employee to comply with this order the
39 bureau shall make such modification in the award contained in the
40 schedule as the evidence produced shall justify.

41 (cf: R.S.34:15-23)

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43 3. This act shall take effect on the 180th day after enactment.

STATEMENT

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3 This bill allows an employee covered by workers' compensation to
4 select the physician and medical services used for the treatment of
5 workplace injuries.

6 The bill would bring the provisions of New Jersey's workers'
7 compensation law regarding who selects medical service providers into
8 compliance with the provisions of the laws of the majority of states.
9 Under current New Jersey law, an employee is required to visit the
10 physician of his employer's choice, unless the employer refuses to
11 provide treatment, in which case the employee may select the
12 physician. New Jersey is among the 17 states that currently have laws
13 permitting the employer to select the attending physician in workers'
14 compensation cases. Of those state laws, four permit an employee to
15 change physicians after a waiting period and five permit a State
16 agency to change the selection. Of 32 states which permit the
17 employee to choose the physician: three require the employee to select
18 the physician from a list provided by a state agency; three require that
19 the employee select a physician from a list provided by the employer;
20 and the other 26 states, like this bill, give a free choice of physicians
21 to the employee.

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26 Allows employee selection of physician and medical services under
27 workers' compensation.