



General Assembly

January Session, 2009

Committee Bill No. 5249

LCO No. 2497

02497HB05249LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

**AN ACT CONCERNING TIMELY MEDICAL TREATMENT FOR
INJURED WORKERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-294d of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) (1) The employer, as soon as the employer has knowledge of an
4 injury, shall provide a competent physician or surgeon to attend the
5 injured employee and, in addition, shall furnish any medical and
6 surgical aid or hospital and nursing service, including medical
7 rehabilitation services and prescription drugs, as the physician or
8 surgeon deems reasonable or necessary. The employer, any insurer
9 acting on behalf of the employer, or any other entity acting on behalf of
10 the employer or insurer shall be responsible for paying the cost of such
11 prescription drugs directly to the provider.

12 (2) If the injured employee is a local or state police officer, state
13 marshal, judicial marshal, correction officer, emergency medical
14 technician, paramedic, ambulance driver, firefighter, or active member
15 of a volunteer fire company or fire department engaged in volunteer

16 duties, who has been exposed in the line of duty to blood or bodily
17 fluids that may carry blood-borne disease, the medical and surgical aid
18 or hospital and nursing service provided by the employer shall include
19 any relevant diagnostic and prophylactic procedure for and treatment
20 of any blood-borne disease.

21 (b) The employee shall select the physician or surgeon from an
22 approved list of physicians and surgeons prepared by the chairman of
23 the Workers' Compensation Commission. If the employee is unable to
24 make the selection, the employer shall do so, subject to ratification by
25 the employee or his next of kin. If the employer has a full-time staff
26 physician or if a physician is available on call, the initial treatment
27 required immediately following the injury may be rendered by that
28 physician, but the employee may thereafter select his own physician as
29 provided by this chapter for any further treatment without prior
30 approval of the commissioner.

31 (c) The commissioner may, without hearing, at the request of the
32 employer or the injured employee, when good reason exists, or on his
33 own motion, authorize or direct a change of physician or surgeon or
34 hospital or nursing service provided pursuant to subsection (a) of this
35 section.

36 (d) The pecuniary liability of the employer for the medical and
37 surgical service required by this section shall be limited to the charges
38 that prevail in the same community or similar communities for similar
39 treatment of injured persons of a like standard of living when the
40 similar treatment is paid for by the injured person. The liability of the
41 employer for hospital service shall be the amount it actually costs the
42 hospital to render the service, as determined by the commissioner,
43 except in the case of state humane institutions, the liability of the
44 employer shall be the per capita cost as determined by the Comptroller
45 under the provisions of section 17b-223. All disputes concerning
46 liability for hospital services in workers' compensation cases shall be
47 settled by the commissioner in accordance with this chapter.

48 (e) If the employer fails to promptly provide a physician or surgeon
49 or any medical and surgical aid or hospital and nursing service as
50 required by this section, the injured employee may obtain a physician
51 or surgeon, selected from the approved list prepared by the chairman,
52 or such medical and surgical aid or hospital and nursing service at the
53 expense of the employer.

54 (f) If an employer has good cause to believe that proposed treatment
55 recommended by (1) a medical provider participating in an employer
56 medical care plan approved pursuant to the provisions of section 31-
57 279; (2) a physician identified in an approved voluntary agreement
58 pursuant to section 31-296; or (3) a provider to whom the employee has
59 been referred by such physician or medical provider for treatment, is
60 unreasonable or unnecessary, the employer shall promptly issue a
61 written notice to the employee and employee's representative, if any,
62 indicating the medical evidence upon which it relies for concluding
63 that the proposed treatment is either unnecessary or unreasonable. If
64 the employer wishes to support its denial of such treatment by a
65 medical examination pursuant to section 31-294f, as amended by this
66 act, the employer shall, not later than thirty days after the receipt of the
67 recommendation of the proposed treatment from such medical
68 provider or physician, schedule its medical examination as authorized
69 in subsection (a) of section 31-294f, as amended by this act.

70 (g) Whenever an examination requested by the employer pursuant
71 to subsection (a) of section 31-294f, as amended by this act, results in
72 concurrence that the proposed treatment recommended by a medical
73 provider or physician described in subdivisions (1) to (3), inclusive, of
74 subsection (f) of this section was reasonable and necessary, the
75 employer shall pay the employee, for the period of the employee's
76 treatment was delayed by the employer, provided the employee is
77 otherwise eligible for benefits for total or partial incapacity: (1) For
78 total incapacity, one hundred per cent of the employee's average
79 weekly earnings, calculated pursuant to section 31-310, subject to the
80 reductions to such earnings specified in subsection (a) of section 31-

81 307; or (2) for partial incapacity, one hundred per cent of the difference
82 in wages described in subsection (a) of section 31-308, subject to the
83 reductions to such wages specified in said subsection. If an employer
84 fails to schedule a medical examination pursuant to the provisions of
85 subsection (a) of section 31-294f, as amended by this act, on or before
86 the date thirty days after the date of such employer's receipt of a
87 recommendation for treatment, the employee, in any proceeding
88 resulting in authorization of such treatment, shall be entitled to recover
89 reasonable attorney's fees arising out of the employee's claim for the
90 recommended treatment.

91 Sec. 2. Section 31-294f of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2009*):

93 (a) An injured employee shall submit himself to examination by a
94 reputable practicing physician or surgeon, at any time while claiming
95 or receiving compensation, upon the reasonable request of the
96 employer or at the direction of the commissioner. The examination
97 shall be performed to determine the nature of the injury and the
98 incapacity resulting from the injury. The physician or surgeon shall be
99 selected by the employer from an approved list of physicians and
100 surgeons prepared by the chairman of the Workers' Compensation
101 Commission and shall be paid by the employer. At any examination
102 requested by the employer or directed by the commissioner under this
103 section, the injured employee shall be allowed to have in attendance
104 any reputable practicing physician or surgeon that the employee
105 obtains and pays for himself or to record such examination by way of
106 any medium which creates an audio or video recording. The employee
107 shall submit to all other physical examinations as required by this
108 chapter. The refusal of an injured employee to submit himself to a
109 reasonable examination under this section shall suspend his right to
110 compensation during such refusal.

111 (b) All medical reports concerning any injury of an employee
112 sustained in the course of his employment shall be furnished within

113 thirty days after the completion of the reports, at the same time and in
114 the same manner, to the employer and the employee or his attorney.

115 Sec. 3. Subsection (b) of section 31-288 of the general statutes is
116 repealed and the following is substituted in lieu thereof (*Effective*
117 *October 1, 2009*):

118 (b) (1) Whenever through the fault or neglect of an employer or
119 insurer, the adjustment or payment of compensation due under this
120 chapter or the provision of reasonable and necessary medical
121 treatment is unduly delayed, such employer or insurer may be
122 assessed by the commissioner hearing the claim a civil penalty of not
123 more than one thousand dollars for each such case of delay, to be paid
124 to the claimant. For purposes of this subsection, the failure to promptly
125 provide medical services recommended by (A) a medical provider
126 participating in an employer medical care plan approved pursuant to
127 the provisions of section 31-279; (B) a physician identified in an
128 approved voluntary agreement pursuant to section 31-296; or (C) a
129 provider to whom the employee has been referred by such medical
130 provider or physician for recommended treatment, shall be presumed
131 to be the unreasonable delay of treatment without good cause unless
132 the commissioner finds the recommended medical care was neither
133 reasonable or necessary at the time such care was recommended.

134 (2) Whenever either party to a claim under this chapter has
135 unreasonably, and without good cause, delayed the completion of the
136 hearings on such claim, the delaying party or parties may be assessed a
137 civil penalty of not more than five hundred dollars by the
138 commissioner hearing the claim for each such case of delay. Any
139 appeal of a penalty assessed pursuant to this subsection shall be taken
140 in accordance with the provisions of section 31-301.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	31-294d

Sec. 2	October 1, 2009	31-294f
Sec. 3	October 1, 2009	31-288(b)

Statement of Purpose:

To create penalties for an employer's delay of necessary medical treatment for injured workers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. LARSON, 11th Dist.

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