



# Senate

General Assembly

**File No. 348**

January Session, 2013

Senate Bill No. 1074

*Senate, April 4, 2013*

The Committee on Labor and Public Employees reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES.***

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 Section 31-294d of the general statutes is repealed and the  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 July 1, 2013*):

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: (1) In the case of employers  
42 other than state humane institutions, (A) on or before June 30, 2013, the  
43 amount it actually costs the hospital to render the service, as  
44 determined by the commissioner, [except] and (B) on or after July 1,  
45 2013, the amount it actually costs the hospital to render the service  
46 plus any additional costs negotiated between the employer and the

47 provider of medical and surgical services, and (2) in the case of state  
 48 humane institutions, [the liability of the employer shall be] the per  
 49 capita cost as determined by the Comptroller under the provisions of  
 50 section 17b-223. For purposes of this subsection, a hospital's billed  
 51 charges shall not be used in determining the liability of the employer  
 52 for hospital service. All disputes concerning liability for hospital  
 53 services in workers' compensation cases shall be settled by the  
 54 commissioner in accordance with this chapter. For hospital service  
 55 rendered on or before June 30, 2013, a dispute shall be filed with the  
 56 commission not later than eighteen months after the date of treatment,  
 57 and for hospital service rendered on or after July 1, 2013, a dispute  
 58 shall be filed with the commission not later than twelve months after  
 59 the date of treatment.

60 (e) If the employer fails to promptly provide a physician or surgeon  
 61 or any medical and surgical aid or hospital and nursing service as  
 62 required by this section, the injured employee may obtain a physician  
 63 or surgeon, selected from the approved list prepared by the chairman,  
 64 or such medical and surgical aid or hospital and nursing service at the  
 65 expense of the employer.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	31-294d

**LAB**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
UConn Health Ctr.	Other - Revenue Loss	Up to \$750,000	Up to \$750,000
Various State Agencies	GF, TF - Indeterminate	Potential Indeterminate	Potential Indeterminate

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Various Municipalities	STATE MANDATE - Potential Cost	Indeterminate	Indeterminate

**Explanation**

Provisions of the bill may result in reduced revenue to the clinical operations of the University of Connecticut Health Center (UCHC), as workers' compensation currently pays higher rates than UCHC's average reimbursement. The revenue loss would be dependent upon the number of workers' compensation patients seen in any given year, which cannot be predicted. However, based on past experience, the annual revenue loss could be up to \$750,000.

The bill is not anticipated to result in a fiscal impact to the state's workers' compensation program as the state enters into contractual agreements with hospitals to establish reimbursement rates for various services. The bill will not change the state's hospital reimbursement rates/formulas.

The bill may result in a fiscal impact to municipalities if they or their

workers' compensation carrier does not negotiate rates with hospitals. The fiscal impact would depend on what the hospital bills the municipality or carrier and what is negotiated with the provider.

Lastly, the bill is not anticipated to increase costs for the Workers' Compensation Commission (WCC). However, the exclusion of a formula or definition of "actual costs" will result in an increase in litigation requests from hospitals and payors<sup>1</sup> to establish reimbursement levels for hospital services. The fiscal impact to the state and municipalities' workers' compensation programs will depend on the workers' compensation commissioner's determination.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>1</sup> The WCC has presently been notified of more than 1,800 related cases.

**OLR Bill Analysis****SB 1074*****AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES.*****SUMMARY:**

Starting July 1, 2013, this bill changes how hospital charges for treating workers' compensation-covered injuries are determined if a hospital does not negotiate discounted rates with the injured employee's employer or its workers' compensation insurance carrier (the "workers' compensation payer").

The law requires a workers' compensation payer to pay a hospital for its actual costs of treating an injured worker, as determined by a workers' compensation commissioner. In practice, the payer and hospital negotiate discounted rates for the hospital's services. If the payer and hospital do not negotiate discounted rates, workers' compensation case law requires the payer to pay the hospital's billed rates (see BACKGROUND). The bill instead requires the payer to pay the hospital's actual costs of rendering the service, plus any additional costs negotiated between the payer and medical and surgical service providers (doctors).

It is unclear why the employer would negotiate with the treating doctors over the hospital's charges (presumably, the payer would negotiate with the hospital for any additional hospital costs). A hospital's charges are typically billed and accounted for separately from the doctors who treat patients in a hospital. In addition, doctors do not generally negotiate for workers' compensation-related rates because the law requires the Workers' Compensation Commission chairman to set their maximum workers' compensation reimbursement rates.

The bill prohibits a hospital's billed charges from being used to determine an employer's liability for the injured employee's hospital service. It does not specify how to determine the hospital's actual costs for providing the service.

As under existing law, a workers' compensation commissioner must settle all disputes over liability for hospital services. The bill sets deadlines to file such disputes with the Workers' Compensation Commission. For hospital services rendered before July 1, 2013, the dispute must be filed within 18 months of the treatment. Disputes over hospital service rendered on or after that date must be filed within 12 months of the treatment.

EFFECTIVE DATE: July 1, 2013

## **BACKGROUND**

### ***Related Case***

In *Thompson, et al, v. J&J Properties, et al, Liberty Mutual Insurance et al, and Lawrence & Memorial Hospital and William W. Backus Hospital* (State of Connecticut Workers' Compensation Commission, Second District, Norwich, Connecticut, File Nos. 200151995, 200158976, 200115873, 400008394, September, 2012), a workers' compensation commissioner ruled that a workers' compensation payer must pay a hospital's billed charges unless the payer has negotiated discounted rates with the hospital. The commissioner found that the provisions in CGS § 31-294d requiring employers to pay a hospital's actual costs, as determined by a compensation commissioner, are no longer applicable because they do not take precedence over the hospital rate deregulation laws in CGS Chapter 368z.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 2 (03/19/2013)