



# Senate

General Assembly

**File No. 267**

February Session, 2014

Substitute Senate Bill No. 61

*Senate, April 2, 2014*

The Committee on Labor and Public Employees reported through SEN. HOLDER-WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL AND AMBULATORY SURGICAL CENTER 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 Section 31-294d of the general statutes is repealed and the  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, 2014*):

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, ambulatory surgical center and nursing  
7 service, including medical rehabilitation services and prescription  
8 drugs, as the physician or surgeon deems reasonable or necessary. The  
9 employer, any insurer acting on behalf of the employer, or any other  
10 entity acting on behalf of the employer or insurer shall be responsible  
11 for paying the cost of such 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, ambulatory surgical center and nursing service provided  
19 by the employer shall include any relevant diagnostic and prophylactic  
20 procedure for and treatment 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] the employee's next of kin. If the employer has a  
26 full-time staff physician or if a physician is available on call, the initial  
27 treatment required immediately following the injury may be rendered  
28 by that physician, but the employee may thereafter select his or her  
29 own physician as provided by this chapter for any further treatment  
30 without prior 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 the commissioner's own motion, authorize or direct a change of  
34 physician or surgeon or hospital, ambulatory surgical center or  
35 nursing service provided pursuant to subsection (a) of this section.

36 (d) (1) 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 and ambulatory surgical center service shall be  
42 the amount it actually costs the hospital or ambulatory surgical center  
43 to render the service, as determined by the commissioner, except in the  
44 case of state humane institutions, the liability of the employer shall be  
45 the per capita cost as determined by the Comptroller under the

46 provisions of section 17b-223. All disputes concerning liability for  
 47 hospital and ambulatory surgical center services in workers'  
 48 compensation cases shall be filed not later than one year from the date  
 49 that the employer remits the payment or notifies the hospital or  
 50 ambulatory surgical center of such employer's dispute and shall be  
 51 settled by the commissioner in accordance with this chapter.

52 (2) On and after July 1, 2015, unless the employer and hospital or  
 53 ambulatory surgical center have otherwise negotiated to determine the  
 54 liability of the employer for hospital or ambulatory surgical center  
 55 services required by this section, the liability of the employer for such  
 56 service shall be two hundred per cent of the amount that would have  
 57 been paid to the hospital or ambulatory surgical center on the same  
 58 date for the same such service under the hospital's or ambulatory  
 59 surgical center's Medicare reimbursement rate.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2014	31-294d

**LAB**      *Joint Favorable Subst.*

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:**

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
UConn Health Ctr.	Operating Fund-Uncertain	None	Uncertain
Various State Agencies	GF, TF - Uncertain	None	Uncertain

**Municipal Impact:**

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Uncertain	None	Uncertain

**Explanation**

The bill may result in a fiscal impact to the state and municipalities' workers' compensation programs and the University of Connecticut Health Center (UCHC) starting in FY 16, which is indeterminate. The bill changes the current reimbursement formula for hospitals and ambulatory surgery centers (ASC) within the workers' compensation system and the dispute resolution process for hospital and ASCs' disputed charges. It is uncertain what the fiscal impact to the state or municipalities' workers' compensation programs will be, as the hospital data is currently reported to the state workers' compensation program in a format inconsistent with Medicare rates<sup>1</sup> and therefore a crosswalk between current rates and Medicare rates is not currently available.

The bill replaces the current hospital reimbursement formula for workers' compensation of "actual cost," which is not currently defined

<sup>1</sup> In general hospital information is reported using revenue codes and Medicare information is reported using diagnostic related groups (DRGs).

in statute, and institutes a formula that is 200% of Medicare for both hospitals and ASCs.

In practice, the state and many municipalities currently negotiate a discount off the invoiced amount directly with the hospital; this negotiated price forms the current reimbursement platform for the state and municipalities' workers' compensation programs. The invoiced value is based on a hospital generated "master charge list".<sup>2</sup>

In contrast, Medicare sets a base hospital reimbursement rate for all procedures to which weights are applied based on the procedure and geographical region of the facility. Medicare changes reimbursement rates multiple times a year; many states who reimburse workers' compensation hospital services as a percentage of Medicare, set their rates annually. The fiscal impact to the state and municipal plans will depend on the difference between the current negotiated rates and 200% of Medicare.

The bill may result in a fiscal impact to the clinical operations of the UCHC if Medicare based reimbursement rates are different than current negotiated rates. The impact will depend on the number of workers' compensation patients seen in a given year, which cannot be predicted.

Lastly, the bill adds ASCs to current statute which is conforming to current practice and does not result in a fiscal impact. The bill also requires payment disputes to be filed within a year after the state or municipality pays the hospital or notifies the facility of the dispute. This provision is not anticipated to result in a cost to the state or municipalities.

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

The annualized ongoing fiscal impact identified above would continue into the future subject to changes in the Medicare hospital

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<sup>2</sup> Hospital master charge lists are currently filed with the state's Office of Health Care Access.

reimbursement rates.

**OLR Bill Analysis****sSB 61*****AN ACT CONCERNING WORKERS' COMPENSATION AND LIABILITY FOR HOSPITAL AND AMBULATORY SURGICAL CENTER SERVICES.*****SUMMARY:**

Starting July 1, 2015, this bill sets the rates for workers' compensation-related services at hospitals and ambulatory (i.e., outpatient) surgical centers (ASC) at 200% of the hospital's or surgical center's Medicare reimbursement rate for the same services, unless the hospital or ASC negotiates different rates with the injured employee's employer or workers' compensation insurance carrier (the "payor").

Current law requires the payor to pay a hospital for its actual costs of treating an injured worker, as determined by a workers' compensation commissioner. In practice, the payor and hospital or ASC generally negotiate discounted rates for the hospital's or ASC's services. If they do not negotiate, the payor must pay the hospital's or ASC's billed rates (see BACKGROUND).

As under existing law, a workers' compensation commissioner must settle all disputes over payments for hospital or ASC services. The bill requires such disputes to be filed within one year after the payor (1) pays the hospital or (2) notifies the hospital or ASC of the dispute.

Although not specified in statute, workers' compensation-related treatments and charges from ASCs are, in practice, treated the same as those from hospitals. The bill codifies current practice by (1) requiring employers to provide injured employees with any reasonable or necessary ASC services, (2) requiring payors to cover ASC blood testing for certain emergency service personnel, and (3) allowing a workers' compensation commissioner to order a change in an

employee's ASC services.

EFFECTIVE DATE: July 1, 2014

## **BACKGROUND**

### ***Related Case***

In September 2012, a workers' compensation commissioner ruled that a workers' compensation payor must pay a hospital's billed charges unless the payor 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 (*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)).

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/18/2014)