

HOUSE BILL No. 2769

By Committee on Health and Human Services

2-9

9 AN ACT concerning workers compensation; relating to fees paid for pre-
10 scription drugs; amending K.S.A. 2003 Supp. 44-510i and repealing
11 the existing section.

12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2003 Supp. 44-510i is hereby amended to read as
15 follows: 44-510i. (a) The director shall appoint, subject to the approval of
16 the secretary, a specialist in health services delivery, who shall be referred
17 to as the medical administrator. The medical administrator shall be a
18 person licensed to practice medicine and surgery in this state and shall
19 be in the unclassified service under the Kansas civil service act.

20 (b) The medical administrator, subject to the direction of the direc-
21 tor, shall have the duty of overseeing the providing of health care services
22 to employees in accordance with the provisions of the workers compen-
23 sation act, including but not limited to:

24 (1) Preparing, with the assistance of the advisory panel, the fee sched-
25 ule for health care services as set forth in this section;

26 (2) developing, with the assistance of the advisory panel, the utiliza-
27 tion review program for health care services as set forth in this section;

28 (3) developing a system for collecting and analyzing data on expend-
29 itures for health care services by each type of provider under the workers
30 compensation act; and

31 (4) carrying out such other duties as may be delegated or directed by
32 the director or secretary.

33 (c) The director shall prepare and adopt rules and regulations which
34 establish a schedule of maximum fees for medical, surgical, hospital, den-
35 tal, nursing, vocational rehabilitation or any other treatment or services
36 provided or ordered by health care providers and rendered to employees
37 under the workers compensation act and procedures for appeals and re-
38 view of disputed charges or services rendered by health care providers
39 under this section;

40 (1) The schedule of maximum fees shall be reasonable, shall promote
41 health care cost containment and efficiency with respect to the workers
42 compensation health care delivery system, and shall be sufficient to en-
43 sure availability of such reasonably necessary treatment, care and attend-

1 ance to each injured employee to cure and relieve the employee from
2 the effects of the injury. The schedule shall include provisions and review
3 procedures for exceptional cases involving extraordinary medical proce-
4 dures or circumstances and shall include costs and charges for medical
5 records and testimony.

6 (2) In every case, all fees, transportation costs, charges under this
7 section and all costs and charges for medical records and testimony shall
8 be subject to approval by the director and shall be limited to such as are
9 fair, reasonable and necessary. The schedule of maximum fees shall be
10 revised as necessary at least every two years by the director to assure that
11 the schedule is current, reasonable and fair.

12 (3) Any contract or any billing or charge which any health care pro-
13 vider, vocational rehabilitation service provider, hospital, person or insti-
14 tution enters into with or makes to any patient for services rendered in
15 connection with injuries covered by the workers compensation act or the
16 fee schedule adopted under this section, which is or may be in excess of
17 or not in accordance with such act or fee schedule, is unlawful, void and
18 unenforceable as a debt.

19 (4) *The fee schedule under the workers compensation act for prescrip-*
20 *tion drugs shall be the average wholesale price plus \$6 for namebrand*
21 *drugs and the average wholesale price plus \$7 for generic brand drugs*
22 *until July 1, 2006. After such date the director shall determine the fee*
23 *schedule for prescription drugs consistent with this section.*

24 (d) There is hereby created an advisory panel to assist the director in
25 establishing a schedule of maximum fees as required by this section. The
26 panel shall consist of the commissioner of insurance and seven members
27 appointed as follows: One person shall be appointed by the Kansas med-
28 ical society; one member shall be appointed by the Kansas association of
29 osteopathic medicine; one member shall be appointed by the Kansas hos-
30 pital association; one member shall be appointed by the Kansas chiro-
31 practic association; and three members shall be appointed by the secre-
32 tary. Of the members appointed by the secretary, one shall be a
33 representative of employers recommended to the secretary by the Kansas
34 chamber of commerce and industry; one shall be a representative of em-
35 ployees recommended to the secretary by the Kansas AFL-CIO; and one
36 shall be a representative of providers of vocational rehabilitation services
37 pursuant to K.S.A. 44-510g and amendments thereto. Each appointed
38 member shall be appointed for a term of office of two years which shall
39 commence on July 1 of the year of appointment. Members of the advisory
40 panel attending meetings of the advisory panel, or attending a subcom-
41 mittee of the advisory panel authorized by the advisory panel, shall be
42 paid subsistence allowances, mileage and other expenses as provided in
43 K.S.A. 75-3223 and amendments thereto.

1 (e) All fees and other charges paid for such treatment, care and at-
2 tendance, including treatment, care and attendance provided by any
3 health care provider, hospital or other entity providing health care serv-
4 ices, shall not exceed the amounts prescribed by the schedule of maxi-
5 mum fees established under this section or the amounts authorized pur-
6 suant to the provisions and review procedures prescribed by the schedule
7 for exceptional cases. With the exception of the rules and regulations
8 established for the payment of selected hospital inpatient services under
9 the diagnosis related group prospective payment system, a health care
10 provider, hospital or other entity providing health care services shall be
11 paid either such health care provider, hospital or other entity's usual and
12 customary charge for the treatment, care and attendance or the maximum
13 fees as set forth in the schedule, whichever is less. In reviewing and
14 approving the schedule of maximum fees, the director shall consider the
15 following:

16 (1) The levels of fees for similar treatment, care and attendance im-
17 posed by other health care programs or third-party payors in the locality
18 in which such treatment or services are rendered;

19 (2) the impact upon cost to employers for providing a level of fees
20 for treatment, care and attendance which will ensure the availability of
21 treatment, care and attendance required for injured employees;

22 (3) the potential change in workers compensation insurance premi-
23 ums or costs attributable to the level of treatment, care and attendance
24 provided; and

25 (4) the financial impact of the schedule of maximum fees upon health
26 care providers and health care facilities and its effect upon their ability
27 to make available to employees such reasonably necessary treatment, care
28 and attendance to each injured employee to cure and relieve the em-
29 ployee from the effects of the injury.

30 Sec. 2. K.S.A. 2003 Supp. 44-510i is hereby repealed.

31 Sec. 3. This act shall take effect and be in force from and after its
32 publication in the Kansas register.