

SENATE BILL No. 403

By Senators Hensley, Bollier, Doll, Faust-Goudeau, Francisco, Haley, Hardy,
Hawk, Holland, Kelly, Pettey, Rogers, Skubal, Sykes and Taylor

2-7

1 AN ACT concerning workers compensation; relating to freedom of choice
2 of a health care provider by injured workers; amending K.S.A. 2017
3 Supp. 44-510h and repealing the existing section.
4

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

6 Section 1. K.S.A. 2017 Supp. 44-510h is hereby amended to read as
7 follows: 44-510h. (a) It shall be the duty of the employer to ~~provide pay~~
8 *for the services of a health care provider designated by the injured worker,*
9 ~~and such~~ *the medical, surgical and hospital treatment, including nursing,*
10 *medicines, medical and surgical supplies, ambulance, crutches, apparatus*
11 *and transportation to and from the home of the injured employee to a place*
12 *outside the community in which such the employee resides, and within*
13 ~~such~~ *the community if the director, in the director's discretion, so orders,*
14 *including transportation expenses computed in accordance with subsection*
15 ~~(a)~~ *of K.S.A. 44-515(a), and amendments thereto, as may be reasonably*
16 *necessary to cure and relieve the employee from the effects of the injury.*

17 (b) (1) If the director finds, upon application of an injured employee,
18 that the services of the health care provider furnished as provided in
19 subsection (a) and rendered on behalf of the injured employee are not
20 satisfactory, the director may authorize the appointment of some other
21 health care provider. In any such case, the employer shall submit the
22 names of two health care providers who, if possible given the availability
23 of local health care providers, are not associated in practice together. The
24 injured employee may select one from the list who shall be the authorized
25 treating health care provider. If the injured employee is unable to obtain
26 satisfactory services from any of the health care providers submitted by the
27 employer under this paragraph, either party or both parties may request the
28 director to select a treating health care provider.

29 (2) Without application or approval, an employee may consult a
30 health care provider of the employee's choice for the purpose of
31 examination, diagnosis or treatment, but the employer shall only be liable
32 for the fees and charges of ~~such the~~ health care provider up to a total
33 amount of \$500. The amount allowed for ~~such the~~ examination, diagnosis
34 or treatment shall not be used to obtain a functional impairment rating.
35 Any medical opinion obtained in violation of this prohibition shall not be

1 admissible in any claim proceedings under the workers compensation act.

2 (c) An injured employee whose injury or disability has been
3 established under the workers compensation act may rely, if done in good
4 faith, solely or partially on treatment by prayer or spiritual means in
5 accordance with the tenets of practice of a church or religious
6 denomination without suffering a loss of benefits subject to the following
7 conditions:

8 (1) The employer or the employer's insurance carrier agrees thereto in
9 writing either before or after the injury;

10 (2) the employee submits to all physical examinations required by the
11 workers compensation act;

12 (3) the cost of ~~such~~ the treatment shall be paid by the employee
13 unless the employer or insurance carrier agrees to make ~~such~~ the payment;

14 (4) the injured employee shall be entitled only to benefits that would
15 reasonably have been expected had ~~such~~ the employee undergone medical
16 or surgical treatment; and

17 (5) the employer or insurance carrier that made an agreement under
18 paragraph (1) or (3) of this subsection may withdraw from the agreement
19 on 10 days' written notice.

20 (d) In any employment to which the workers compensation act
21 applies, the employer shall be liable to each employee who is employed as
22 a duly authorized law enforcement officer, firefighter, driver of an
23 ambulance as defined in ~~subsection (b)~~ of K.S.A. 65-6112(d), and
24 amendments thereto, an ambulance attendant as defined in ~~subsection (d)~~
25 of K.S.A. 65-6112(f), and amendments thereto, or a member of a regional
26 emergency medical response team as provided in K.S.A. 48-928, and
27 amendments thereto, including any person who is serving on a volunteer
28 basis in such capacity, for all reasonable and necessary preventive medical
29 care and treatment for hepatitis to which ~~such~~ the employee is exposed
30 under circumstances arising out of and in the course of employment.

31 (e) It is presumed that the employer's obligation to provide the
32 services of a health care provider, and ~~such~~ the medical, surgical and
33 hospital treatment, including nursing, medicines, medical and surgical
34 supplies, ambulance, crutches, apparatus and transportation to and from
35 the home of the injured employee to a place outside the community in
36 which ~~such~~ the employee resides, and within ~~such~~ the community if the
37 director, in the director's discretion, so orders, including transportation
38 expenses computed in accordance with ~~subsection (a)~~ of K.S.A. 44-515(a),
39 and amendments thereto, shall terminate upon the employee reaching
40 maximum medical improvement. ~~Such~~ The presumption may be overcome
41 with medical evidence that it is more probably true than not that additional
42 medical treatment will be necessary after ~~such~~ the time ~~as that~~ the
43 employee reaches maximum medical improvement. The term "medical

1 treatment" as used in this subsection (e) means only that treatment
2 provided or prescribed by a licensed health care provider and shall not
3 include home exercise programs or over-the-counter medications.

4 Sec. 2. K.S.A. 2017 Supp. 44-510h is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.