

CHAPTER 46

**LABOR AND INDUSTRY**

HOUSE BILL 96-1126

BY REPRESENTATIVES Salaz, Paschall, and Piffner;  
also SENATORS Mutzebaugh and Tebedo.

**AN ACT**

**CONCERNING WORKERS' COMPENSATION MEDICAL CARE CLASSES FOR LEVEL I AND LEVEL II TRAINING FOR PHYSICIANS BY THE DIRECTOR OF THE DIVISION OF WORKERS' COMPENSATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 8-40-201 (2.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**8-40-201. Definitions - repeal.** As used in articles 40 to 47 of this title, unless the context otherwise requires:

(2.5) (a) "Adverse action" means that the director, pursuant to part 5 of article 43 of this title or section 8-42-101 (3.6), has retroactively denied payment of fees, recommended a change in treating physician, or excluded a health care provider from the workers' compensation system by revoking the accreditation of any such health care provider under section 8-42-101 (3.6).

(b) (I) This subsection (2.5) is repealed, effective ~~July 1, 1996~~ JULY 1, 2003.

(II) Prior to such repeal, the ~~commission and the~~ accreditation process created by section 8-42-101 (3.5) and (3.6) shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 2.** 8-42-101 (3) (a) (I), (3) (b), (3.5), and (3.6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**8-42-101. Employer must furnish medical aid - approval of plan - fee schedule - contracting for treatment - no recovery from employee - medical**

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**treatment guidelines - accreditation of physicians - repeal.** (3) (a) (I) The director ~~upon the advice of the commission;~~ shall establish a schedule fixing the fees for which all medical, surgical, hospital, dental, nursing, and vocational rehabilitation treatment rendered to employees under this section shall be compensated, and it is unlawful, void, and unenforceable as a debt for any physician, chiropractor, hospital, person, or institution to contract with, bill, or charge any patient for services, rendered in connection with injuries coming within the purview of this article or an applicable fee schedule, which are or may be in excess of said fee schedule unless such charges are approved by the director. Fee schedules shall be reviewed on or before July 1 of each year by the director, and appropriate health care practitioners shall be given a reasonable opportunity to be heard as required pursuant to section 24-4-103, C.R.S., prior to fixing the fees, impairment rating guidelines which shall be based on the revised third edition of the "American Medical Association Guides to the Evaluation of Permanent Impairment", in effect as of July 1, 1991, and medical treatment guidelines and utilization standards. The director shall promulgate rules and regulations concerning reporting requirements, penalties for failure to report correctly or in a timely manner, utilization control requirements for services provided under this section, and the accreditation process in subsection (3.6) of this section.

(b) Medical treatment guidelines and utilization standards, developed by the director, ~~with input from the commission;~~ shall be used by health care practitioners for compliance with this section.

(3.5) (a) (I) "Physician" means, for the purposes of the level I and level II accreditation programs, a physician licensed under the "Colorado Medical Practice Act". For the purposes of level I accreditation only and not level II accreditation, "physician" means a dentist licensed under the "Dental Practice Law of Colorado", a podiatrist licensed under the provisions of article 32 of title 12, C.R.S., and a chiropractor licensed under the provisions of article 33 of title 12, C.R.S. No physician shall be deemed to be accredited under either level I or level II solely by reason of being licensed.

(II) The director shall promulgate rules ~~by January 1, 1992;~~ establishing a system for the determination of medical treatment guidelines and utilization standards and medical impairment rating guidelines for impairment ratings as a percent of the whole person or affected body part based on the revised third edition of the "American Medical Association Guides to the Evaluation of Permanent Impairment", in effect as of July 1, 1991.

(b) A medical impairment rating system shall be ~~made available~~ MAINTAINED by the director. ~~by January 1, 1992.~~

~~(c) There is hereby created in the division the workers' compensation medical care accreditation commission to advise the director on the fee schedule established pursuant to subparagraph (I) of paragraph (a) of subsection (3) of this section and on medical impairment rating guidelines and medical treatment guidelines and utilization standards, as well as the denial of surgery and its relationship to maximum medical improvement. Such advisory commission shall consist of seven citizens of this state who shall be appointed by the governor with the consent of the senate. The governor shall consider any recommendations of the director and may receive input from appropriate professional societies.~~

~~(d) Two members of the commission shall be physicians licensed to practice medicine in this state, one member shall be a chiropractor licensed to practice in this state, two members shall be consumers, one of whom shall represent the interests of small business and one of whom shall represent the interests of risk management, one member shall be a representative of workers injured on the job, and one member shall be a representative of the insurance industry. In addition, the medical director serving pursuant to paragraph (n) of subsection (3.6) of this section shall serve as an ex-officio member of the commission.~~

~~(e) All members of the commission shall serve terms of three years; except that the terms of the members initially appointed by the governor shall be as follows:~~

~~(f) Two members, one of whom is a licensed physician and the other of whom is a consumer representing either the interests of small business or the interests of risk management, shall be appointed for terms ending July 1, 1992;~~

~~(H) Two members, one of whom is a licensed physician and one of whom is a consumer representing either the interests of small business or risk management, shall be appointed for terms ending July 1, 1993; and~~

~~(III) Three members, one of whom is a representative of the insurance industry, one of whom is a licensed chiropractor, and one of whom is a representative of workers who have been injured on the job, shall be appointed for terms ending July 1, 1994.~~

~~(f) All initial appointments shall be made by the governor as soon as practicable but in no event later than July 1, 1991.~~

~~(g) The chair of the commission shall be elected by its members every two years.~~

~~(h) The physicians who are members of the commission shall have either a minimum of three years' experience in occupational medicine, with thirty percent of their practice devoted to cases involving occupational injuries, or a minimum of five years' experience in occupational medicine, with fifteen percent of their practice devoted to cases involving occupational medicine. The balance of the practice of such members shall reflect a diversity of areas of practice, including family and internal medicine.~~

~~(i) Members of the commission who are not employees of the state shall receive fifty dollars per diem for attendance at official meetings and shall be reimbursed for reasonable and necessary travel expenses incurred in the conduct of commission business. Travel expenses shall be reimbursed at the rate authorized for state employees.~~

~~(j) The governor shall remove any member of the commission for malfeasance in office, failure to regularly attend meetings, or any cause that renders such member incapable or unfit to discharge the duties of his office, and any such removal shall not be subject to review.~~

~~(k) (c) (I) This subsection (3.5) is repealed, effective July 1, 1996 JULY 1, 2003.~~

(II) Prior to such repeal ~~the commission and~~ the accreditation process created by this subsection (3.5) and subsection (3.6) of this section shall be reviewed as provided for in section 24-34-104, C.R.S.

(3.6) ~~The director, with input from the commission, shall establish~~ a two-tier accreditation system ~~which shall be comprised of the following programs:~~

(a) (I) A program ~~which establishes~~ ESTABLISHING the accreditation requirements for physicians providing primary care to patients who have, as a result of their injury, been unable to return to work for more than three working days, referred to in this section as "time-loss injuries", which program shall be voluntary except in the case of chiropractors, for whom it shall be mandatory, and which shall be known as level I accreditation; and

(II) A program ~~which establishes~~ ESTABLISHING the accreditation requirements for physicians providing impairment evaluation of injured workers, which program shall be known as level II accreditation.

(b) ~~On and after January 1, 1993,~~ A physician who provides impairment evaluation of injured workers shall complete and must have received accreditation under the level II accreditation program. Specialists who do not render primary care to injured workers and who do not perform impairment evaluations do not require accreditation. The facility where a physician provides such services cannot be accredited.

(c) Both the level I and level II accreditation programs shall be implemented and available to physicians. ~~no later than July 1, 1992.~~ All physicians who are required to be accredited shall complete the level II accreditation program or programs. ~~no later than July 1, 1993.~~

(d) The level I and level II accreditation programs shall operate in such a manner that the costs thereof shall be fully met by registration fees paid by the physicians. The registration fee for level I accreditation shall not exceed two hundred fifty dollars, and the registration fee for level II accreditation shall not exceed four hundred dollars. The registration fee for each program shall cover the cost of all accreditation course work and materials.

(e) The accreditation system shall be established so as to provide physicians with an understanding of the administrative, legal, and medical roles and in such a manner that accreditation is accessible to every licensed physician, with consideration of specialty and geographic diversity.

(f) Initial accreditation shall be for a three-year period and may be renewed for successive three-year periods. The director by regulation may determine any additional training program required prior to accreditation renewal.

(g) The director shall, upon good cause shown, revoke the accreditation of any physician who violates the provisions of this subsection (3.6) or any rule promulgated by the director pursuant to this subsection (3.6), following a hearing on the merits before an administrative law judge, subject to review by the industrial claim appeals office and the court of appeals, in accordance with all applicable provisions of article

43 of this title.

(h) If a physician whose accreditation has been revoked submits a claim for payment for services rendered subsequent to such revocation, the physician shall be considered in violation of section 10-1-127, C.R.S., and neither an insurance carrier ~~or~~ NOR A self-insured employer shall be under any obligation to pay such claim.

(i) A physician who provides treatment for nontime loss injuries need not be accredited to be reimbursed for the costs of such treatment pursuant to the provisions of the "Workers' Compensation Act of Colorado".

~~(j) The division shall be charged with the responsibility of providing sufficient staff, facilities, and administrative support to accomplish the tasks of the commission.~~

(k) The division shall make available to insurers a list of all accredited physicians and a list of all physicians whose accreditation has been revoked. Such lists shall be updated on a monthly basis.

(l) The registration fees collected pursuant to paragraph (d) of this subsection (3.6) shall be transmitted to the state treasurer, who shall credit the same to the physicians accreditation program cash fund, which is hereby created in the state treasury. Moneys in the physicians accreditation program cash fund are hereby continuously appropriated for the payment of the direct costs of providing the level I and level II accreditation courses and materials.

~~(m) All administrative costs associated with the level I and level II accreditation programs and all costs associated with the duties and responsibilities of the commission, including reimbursement of travel expenses as authorized under paragraph (i) of subsection (3.5) of this section, shall be paid out of the workers' compensation cash fund in accordance with appropriations made pursuant to section 8-44-112 (7).~~

(n) The director shall contract with the medical school of the University of Colorado for the services of a medical director to advise the director ~~and to work with the commission~~ on issues of accreditation, impairment rating guidelines, medical treatment guidelines and utilization standards, and case management and to consult with the director on peer review activities as specified in this subsection (3.6) and section 8-43-501. Such medical director shall be a medical doctor licensed to practice in this state with experience in occupational medicine. The director may contract with an appropriate private organization which meets the definition of a utilization and quality control peer review organization as set forth in 42 U.S.C. sec. 1320c-1 (1) (A) or (1) (B), to conduct peer review activities under this subsection (3.6) and section 8-43-501 and to recommend whether or not adverse action is warranted.

(o) Except as provided in this subsection (3.6), ~~on and after July 1, 1993~~, neither an insurance carrier nor a self-insured employer or injured worker shall be liable for costs incurred for services rendered by a physician in the impairment evaluation of a patient if such attending physician is not accredited at a level II accreditation pursuant to the provisions of this subsection (3.6).

(p) (I) For purposes of this paragraph (p):

(A) "Case management" means a system developed by the insurance carrier in which the carrier shall assign a person knowledgeable in workers' compensation health care to communicate with the employer, employee, and treating physician to assure that appropriate and timely medical care is being provided.

(B) "Managed care" means the provision of medical services through a recognized organization authorized under the provisions of parts 1, 3, and 4 of article 16 of title 10, C.R.S., or a network of medical providers accredited to practice workers' compensation under this subsection (3.6).

~~(II) On or before July 1, 1993;~~ Every employer or its insurance carrier shall offer at least managed care or medical case management in the counties of Denver, Adams, Jefferson, Arapahoe, Douglas, Boulder, Larimer, Weld, El Paso, Pueblo, and Mesa and shall offer medical case management in all other counties of the state.

(q) The division is authorized to accept moneys from any governmental unit as well as grants, gifts, and donations from individuals, private organizations, and foundations; except that no grant, gift, or donation may be accepted by the division if it is subject to conditions which are inconsistent with this article or any other laws of this state or which require expenditures from the workers' compensation cash fund which have not been approved by the general assembly. All moneys accepted by the division shall be transmitted to the state treasurer for credit to the workers' compensation cash fund.

(r) (I) This subsection (3.6) is repealed, effective ~~July 1, 1996~~ JULY 1, 2003.

(II) Prior to such repeal ~~the commission and~~ the accreditation process created by subsection (3.5) of this section and this subsection (3.6) shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 3.** 24-34-104 (25.1) (k), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(k) ~~The functions of the workers' compensation medical care accreditation commission and the accreditation of health care providers under the workers' compensation system in accordance with section 8-42-101 (3.5) and (3.6), C.R.S.;~~

**SECTION 4.** 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (32.5) THE FOLLOWING FUNCTIONS, AGENCIES, OR BOTH, SHALL TERMINATE ON JULY 1, 2003: THE ACCREDITATION OF HEALTH CARE PROVIDERS UNDER THE WORKERS' COMPENSATION SYSTEM IN ACCORDANCE WITH SECTION 8-42-101 (3.5) AND (3.6), C.R.S.

**SECTION 5. Effective date.** This act shall take effect July 1, 1996.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 8, 1996