

HOUSE BILL No. 2312

By Representative Clayton

2-10

1 AN ACT concerning workers compensation; authorizing injured workers
2 to designate a healthcare provider for care thereunder; requiring an
3 employer to provide such services; amending K.S.A. 2020 Supp. 44-
4 510h and repealing the existing section.

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

7 Section 1. K.S.A. 2020 Supp. 44-510h is hereby amended to read as
8 follows: 44-510h. (a) It shall be the duty of the employer to provide the
9 services of a healthcare provider *designated by the injured employee*, and
10 such medical, surgical and hospital treatment, including nursing,
11 medicines, medical and surgical supplies, ambulance, crutches, apparatus
12 and transportation to and from the home of the injured employee to a place
13 outside the community in which such employee resides and within such
14 community if the director, in the director's discretion, so orders, including
15 transportation expenses computed in accordance with K.S.A. 44-515(a),
16 and amendments thereto, as may be reasonably necessary to cure and
17 relieve the employee from the effects of the injury.

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

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

1 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 treatment shall be paid by the employee unless
13 the employer or insurance carrier agrees to make such payment;

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

17 (5) the employer or insurance carrier that made an agreement under
18 paragraph (1) or (3) may withdraw from the agreement on 10 days' written
19 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, an emergency
23 medical service provider as defined in K.S.A. 65-6112, and amendments
24 thereto, or a member of a regional emergency medical response team as
25 provided in K.S.A. 48-928, and amendments thereto, including any person
26 who is serving on a volunteer basis in such capacity, for all reasonable and
27 necessary preventive medical care and treatment for hepatitis to which
28 such employee is exposed under circumstances arising out of and in the
29 course of employment.

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

- 1 shall not include home exercise programs or over-the-counter medications.
- 2 Sec. 2. K.S.A. 2020 Supp. 44-510h is hereby repealed.
- 3 Sec. 3. This act shall take effect and be in force from and after its
- 4 publication in the statute book.