

SENATE BILL No. 203

By Senator Sykes

2-10

1 AN ACT concerning workers compensation; relating to injured employees;
2 allowing the employee the freedom of choice in designating a
3 healthcare provider; requiring the employer to pay for the services of
4 the designated healthcare provider; amending K.S.A. 2020 Supp. 44-
5 510h and repealing the existing section.
6

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

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

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

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

1 ~~opinion obtained in violation of this prohibition shall not be admissible in~~
2 ~~any claim proceedings under the workers compensation act.~~

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

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

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

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

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

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

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

31 ~~(e)(d)~~ It is presumed that the employer's obligation to ~~provide pay for~~
32 the services of a healthcare provider and such 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 employee resides and within such community if the director, in
37 the director's discretion, so orders, including transportation expenses
38 computed in accordance with K.S.A. 44-515(a), and amendments thereto,
39 shall terminate upon the employee reaching maximum medical
40 improvement. Such presumption may be overcome with medical evidence
41 that it is more probably true than not that additional medical treatment will
42 be necessary after such time as the employee reaches maximum medical
43 improvement. As used in this subsection, "medical treatment" means only

1 that treatment provided or prescribed by a licensed healthcare provider and
2 shall not include home exercise programs or over-the-counter medications.

3 Sec. 2. K.S.A. 2020 Supp. 44-510h is hereby repealed.

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