

HOUSE BILL No. 2617

By Committee on Commerce, Labor and Economic Development

2-4

Proposed Amendments to HB 2617 #1  
Committee on Commerce, Labor and  
Economic Development  
February 16, 2016  
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Office of Revisor of Statutes

1 AN ACT concerning workers compensation; relating to the medical  
2 administrator; electronic filing for administrative hearings; amending  
3 K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. 44-5101 and  
4 repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2015 Supp. 44-5101 is hereby amended to read as  
8 follows: 44-5101. (a) ~~Subject to the approval of the secretary,~~ the director  
9 shall ~~contract with or appoint, subject to the approval of the secretary,~~ a  
10 specialist in health services delivery, who shall be referred to as the  
11 medical administrator. The medical administrator, ~~if appointed,~~ shall be a  
12 ~~person licensed to practice medicine and surgery in this state and shall be~~  
13 ~~in the unclassified service under the Kansas civil service act.~~

14 (b) The medical administrator, subject to the direction of the director,  
15 shall have the duty of overseeing the providing of health care services to  
16 employees in accordance with the provisions of the workers compensation  
17 act, including, but not limited to:

18 (1) Preparing, with the assistance of the advisory panel, the fee  
19 schedule for health care services as set forth in this section;

20 (2) developing, with the assistance of the advisory panel, the  
21 utilization review program for health care services as set forth in this  
22 section;

23 (3) developing a system for collecting and analyzing data on  
24 expenditures for health care services by each type of provider under the  
25 workers compensation act; and

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

28 (c) The director shall prepare and adopt rules and regulations which  
29 establish a schedule of maximum fees for medical, surgical, hospital,  
30 dental, nursing, vocational rehabilitation or any other treatment or services  
31 provided or ordered by health care providers and rendered to employees  
32 under the workers compensation act and procedures for appeals and  
33 review of disputed charges or services rendered by health care providers  
34 under this section;

35 (1) The schedule of maximum fees shall be reasonable, shall promote  
36 health care cost containment and efficiency with respect to the workers

Strike in line 11  
a person licensed to practice medicine and surgery  
in this state and shall be

1 compensation health care delivery system, and shall be sufficient to ensure  
2 availability of such reasonably necessary treatment, care and attendance to  
3 each injured employee to cure and relieve the employee from the effects of  
4 the injury. The schedule shall include provisions and review procedures for  
5 exceptional cases involving extraordinary medical procedures or  
6 circumstances and shall include costs and charges for medical records and  
7 testimony.

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

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

21 (d) There is hereby created an advisory panel to assist the director in  
22 establishing a schedule of maximum fees as required by this section. The  
23 panel shall consist of the commissioner of insurance and 11 members  
24 appointed as follows: One person shall be appointed by the Kansas  
25 medical society; one member shall be appointed by the Kansas association  
26 of osteopathic medicine; one member shall be appointed by the Kansas  
27 hospital association; one member shall be appointed by the Kansas  
28 chiropractic association; one member shall be appointed by the Kansas  
29 physical therapy association, one member shall be appointed by the  
30 Kansas occupational therapy association and five members shall be  
31 appointed by the secretary. Of the members appointed by the secretary,  
32 two shall be representatives of employers recommended to the secretary,  
33 by the Kansas chamber of commerce and industry; two shall be  
34 representatives of employees recommended to the secretary by the Kansas  
35 AFL-CIO; and one shall be a representative of providers of vocational  
36 rehabilitation services pursuant to K.S.A. 44-510g, and amendments  
37 thereto. Each appointed member shall be appointed for a term of office of  
38 two years which shall commence on July 1 of the year of appointment.  
39 Members of the advisory panel attending meetings of the advisory panel,  
40 or attending a subcommittee of the advisory panel authorized by the  
41 advisory panel, shall be paid subsistence allowances, mileage and other  
42 expenses as provided in K.S.A. 75-3223, and amendments thereto.

43 (e) All fees and other charges paid for such treatment, care and

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

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

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

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

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

29 Sec. 2. K.S.A. 44-534 is hereby amended to read as follows: 44-534.

30 (a) Whenever the employer, worker, Kansas workers compensation fund or  
31 insurance carrier cannot agree upon the worker's right to compensation  
32 under the workers compensation act or upon any issue in regard to workers  
33 compensation benefits due the injured worker thereunder, the employer,  
34 worker, Kansas worker's compensation fund or insurance carrier may  
35 apply in writing to the director for a determination of the benefits or  
36 compensation due or claimed to be due. The application shall be filed in  
37 the form prescribed by the rules and regulations of the director, including  
38 requirements for *electronic filing*, and the application shall set forth the  
39 substantial and material facts in relation to the claim. Whenever an  
40 application is filed under this section, the matter shall be assigned to an  
41 administrative law judge. The director shall forthwith mail a certified copy  
42 of the application to the adverse party. The administrative law judge shall  
43 proceed, upon due and reasonable notice to the parties, which shall not be

1 less than 20 days, to hear all evidence in relation thereto and to make  
2 findings concerning the amount of compensation, if any due to the worker.

3 (b) No proceeding for compensation shall be maintained under the  
4 workers compensation act unless an application for a hearing is on file in  
5 the office of the director within three years of the date of the accident or  
6 within two years of the date of the last payment of compensation,  
7 whichever is later.

8 (c) *If the workers compensation electronic filing system is*  
9 *inaccessible on the last day for filing, then the time for filing shall be*  
10 *extended to the first accessible day that is not a Saturday, Sunday or legal*  
11 *holiday. As used in this subsection:*

12 (1) "Last day" means:

13 (A) *For electronic or facsimile filing, at midnight in the division's*  
14 *time zone on the final day for filing; and*

15 (B) *for filing by other means, at 5 p.m. in the division's time zone on*  
16 *the final day for filing; and*

17 (2) *"legal holiday" means any day declared a holiday by the*  
18 *president of the United States, the congress of the United States or the*  
19 *legislature of this state, or any day observed as a holiday by order of the*  
20 *governor: A half holiday shall be treated as other days and not as a*  
21 *holiday.*

22 Sec. 3. K.S.A. 44-536a is hereby amended to read as follows: 44-  
23 536a. (a) Every pleading, motion and other ~~paper~~ document provided for  
24 by the workers compensation act of any party, who is represented by an  
25 attorney, shall be signed by at least one attorney of record in the attorney's  
26 individual name, and the attorney's address ~~and~~ telephone number, fax  
27 number, email address and supreme court registration number shall be  
28 stated. *Signature by electronic means, when utilizing the workers*  
29 *compensation electronic filing system, satisfies the requirements for*  
30 *signing. A pleading, motion or other ~~paper~~ document provided for by the*  
31 *workers compensation act of any party who is not represented by an*  
32 *attorney shall be signed by the party in writing or electronically, when*  
33 *utilizing the workers compensation electronic filing system, and shall state*  
34 *the party's name, address, telephone number, fax number and email*  
35 *address, if applicable.*

36 (b) Except when otherwise specifically provided by rule and  
37 regulation of the director, pleadings need not be verified or accompanied  
38 by an affidavit. The signature of a person constitutes a certificate by the  
39 person; (1) That the person has read the pleading; (2) that to the best of  
40 the person's knowledge, information and belief formed after reasonable  
41 inquiry, the pleading is well grounded in fact and is warranted by existing  
42 law or a good faith argument for the extension, modification or reversal of  
43 existing law; and (3) that the pleading is not imposed for any improper

1 purpose, such as to harass or to cause unnecessary delay or needless  
2 increase in the cost of resolving disputed claims for benefits.

3 (c) If any pleading, motion or other ~~paper~~ *document* provided for by  
4 the workers compensation act is not signed, such pleading, motion or other  
5 ~~paper~~ *document* shall not be accepted and shall be void unless it is signed  
6 promptly after the omission is called to the attention of the pleader or  
7 movant.

8 (d) If a pleading, motion or other ~~paper~~ *document* provided for by the  
9 workers compensation act is signed in violation of this section, the  
10 administrative law judge, director or board, upon motion or upon its own  
11 initiative upon notice and after opportunity to be heard, shall impose upon  
12 the person who signed such pleading or a represented party, or both, an  
13 appropriate sanction, which may include an order to pay to the other party  
14 or parties the amount of the reasonable expenses incurred because of the  
15 filing of the pleading, motion or other ~~paper~~ *document*, including  
16 reasonable attorney fees.

17 Sec. 4. K.S.A. 44-534 and 44-536a and K.S.A. 2015 Supp. 44-510i  
18 are hereby repealed.

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