

As Amended by House Committee

Session of 2016

HOUSE BILL No. 2617

By Committee on Commerce, Labor and Economic Development

2-4

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. 44-510i 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. 44-510i is hereby amended to read as
8 follows: 44-510i. (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 a~~
13 **person licensed to practice medicine and surgery in this state and, if**
14 **appointed, shall be** in the unclassified service under the Kansas civil
15 service act.

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

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

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

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

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

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

1 (1) The schedule of maximum fees shall be reasonable, shall promote
2 health care cost containment and efficiency with respect to the workers
3 compensation health care delivery system, and shall be sufficient to ensure
4 availability of such reasonably necessary treatment, care and attendance to
5 each injured employee to cure and relieve the employee from the effects of
6 the injury. The schedule shall include provisions and review procedures for
7 exceptional cases involving extraordinary medical procedures or
8 circumstances and shall include costs and charges for medical records and
9 testimony.

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

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

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

1 expenses as provided in K.S.A. 75-3223, and amendments thereto.

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

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

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

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

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

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

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

1 of the application to the adverse party. The administrative law judge shall
2 proceed, upon due and reasonable notice to the parties, which shall not be
3 less than 20 days, to hear all evidence in relation thereto and to make
4 findings concerning the amount of compensation, if any due to the worker.

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

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

14 (1) *"Last day" means:*

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

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

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

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

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

1 law or a good faith argument for the extension, modification or reversal of
2 existing law; and (3) that the pleading is not imposed for any improper
3 purpose, such as to harass or to cause unnecessary delay or needless
4 increase in the cost of resolving disputed claims for benefits.

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

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

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

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