

44-510h. Medical compensation; change of health care provider; examination by alternate health care provider; faith healing; preventative hepatitis treatment; presumption of employer's obligations; termination of. (a) It shall be the duty of the employer to provide the services of a health care provider, and such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, apparatus and transportation to and from the home of the injured employee to a place outside the community in which such employee resides, and within such community if the director, in the director's discretion, so orders, including transportation expenses computed in accordance with subsection (a) of K.S.A. 44-515, and amendments thereto, as may be reasonably necessary to cure and relieve the employee from the effects of the injury.

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

(2) Without application or approval, an employee may consult a health care provider of the employee's choice for the purpose of examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such health care provider up to a total amount of \$500. The amount allowed for such examination, diagnosis or treatment shall not be used to obtain a functional impairment rating. Any medical opinion obtained in violation of this prohibition shall not be admissible in any claim proceedings under the workers compensation act.

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

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

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

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

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

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

(d) In any employment to which the workers compensation act applies, the employer shall be liable to each employee who is employed as a duly authorized law enforcement officer, firefighter, driver of an ambulance as defined in subsection (b) [(d)] of K.S.A. 65-6112, and amendments thereto, an ambulance attendant as defined in subsection (d) of K.S.A. 65-6112, and amendments thereto, or a member of a regional emergency medical response team as provided in K.S.A. 48-928, and amendments thereto, including any person who is serving on a volunteer basis in such capacity, for all reasonable and necessary preventive medical care and treatment for hepatitis to which such employee is exposed under circumstances arising out of and in the course of employment.

(e) It is presumed that the employer's obligation to provide the services of a health care provider, and such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, apparatus and transportation to and from the home of the injured employee to a place outside the community in which such employee resides, and within such community if the director, in the director's discretion, so orders, including transportation expenses computed in accordance with subsection (a) of K.S.A. 44-515, and amendments thereto, shall terminate upon the employee reaching maximum medical improvement. Such presumption may be overcome with medical evidence that it is more probably true than not that additional medical treatment will be necessary after such time as the employee reaches maximum medical improvement. The term "medical treatment" as used in this subsection (e) means only that treatment provided or prescribed by a licensed health care provider and shall not include home exercise programs or over-the-counter medications.

History: L. 2000, ch. 160, § 1; L. 2002, ch. 149, § 3; L. 2011, ch. 55, § 11; May 15.