

TITLE 28

Labor and Labor Relations

CHAPTER 28-33

Workers' Compensation – Benefits

SECTION 28-33-8

§ 28-33-8 Employee's choice of physician, dentist, or hospital – Payment of charges – Physician reporting schedule. – (a)(1) An injured employee shall have freedom of choice to obtain health care, diagnosis, and treatment from any qualified health care provider initially. The initial health care provider of record may, without prior approval, refer the injured employee to any qualified specialist for independent consultation or assessment, or specified treatment. If the insurer or self-insured employer has a preferred provider network approved and kept on record by the medical advisory board, any change by the employee from the initial health care provider of record shall only be to a health care provider listed in the approved preferred provider network; provided, however, that any contract proffered or maintained which restricts or limits the health care provider's ability to make referrals pursuant to the provisions of this section, restricts the injured employee's first choice of health care provider, substitutes or overrules the treatment protocols maintained by the medical advisory board or attempts to evade or limit the jurisdiction of the workers' compensation court shall be void as against public policy. If the employee seeks to change to a health care provider not in the approved preferred provider network, the employee must obtain the approval of the insurer or self-insured employer. Nothing contained in this section shall prevent the treatment, care, or rehabilitation of an employee by more than one physician, dentist, or hospital. The employee's first visit to any facility providing emergency care or to a physician or medical facility under contract with or agreement with the employer or insurer to provide priority care shall not constitute the employee's initial choice to obtain health care, diagnosis or treatment.

(2) In addition to the treatment of qualified health care providers, the employee shall have the freedom to obtain a rehabilitation evaluation by a rehabilitation counselor certified by the director pursuant to § 28-33-41 in cases where the employee has received compensation for a period of more than three (3) months, and the employer shall pay the reasonable fees incurred by the rehabilitation counselor for the initial assessment.

(b) Within three (3) days of an initial visit following an injury, the health care provider shall provide to the insurer or self-insured employer, and the employee and his or her attorney a notification of compensable injury form to be approved by the administrator of the medical advisory board. Within three (3) days of the injured employee's release or discharge, return to work, and/or recovery from an injury covered by chapters 29 – 38 of this title, the health care provider shall provide a notice of release to the insurer or self-insured employer and the employee and his or her attorney on a form approved by the division. A twenty dollar (\$20.00) fee may be charged by the health care provider to the insurer or self-insured employer for the notification of compensable injury forms or notice of release forms or for affidavits filed pursuant to subsection (c) of this section, but only if filed in a timely manner. No claim for care or treatment by a physician, dentist, or hospital chosen by an employee shall be valid and enforceable as against his or her employer, the employer's insurer, or the employee, unless the physician, dentist, or hospital gives written notice of the employee's choice to the employer/insurance carrier within fifteen (15) days after the beginning of the services or treatment. The health care provider shall in

writing present to the employer or insurance carrier a final itemized bill for all unpaid services or treatment within three (3) months after the conclusion of the treatment. The employee shall not be personally liable to pay any physician, dentist, or hospital bills in cases where the physician, dentist, or hospital has forfeited the right to be paid by the employer or insurance carrier because of noncompliance with this section.

(c)(1) At six (6) weeks from the date of injury, then every twelve (12) weeks thereafter until maximum medical improvement, any qualified physician or other health care professional providing medical care or treatment to any person for an injury covered by chapters 29 – 38 of this title shall file an itemized bill and an affidavit with the insurer, the employee and his or her attorney, and the medical advisory board. A ten percent (10%) discount may be taken on the itemized bill affidavits not filed in a timely manner and received by the insurer one week or more late. The affidavit shall be on a form designed and provided by the administrator of the medical advisory board and shall state:

(i) The type of medical treatment provided to date, including type and frequency of treatment(s);

(ii) Anticipated further treatment including type, frequency, and duration of treatment(s), whether or not maximum medical improvement has been reached and the anticipated date of discharge;

(iii) Whether the employee can return to the former position of employment or is capable of other work, specifying work restrictions and work capabilities of the employee;

(2) The affidavit shall be admissible as an exhibit of the workers' compensation court with or without the appearance of the affiant.

(d) "Itemized bill", as referred to in this section, means a statement of charges, on a form HCFA 1500 or other form suitable to the insurer, which includes, but is not limited to, an enumeration of specific types of care provided, facilities or equipment used, services rendered, and appliances or medicines prescribed, for purposes of identifying the treatment given the employee with respect to his or her injury.

(e)(1) The treating physician shall furnish to the employee, or to his or her legal representative, a copy of his or her medical report within ten (10) days of the examination date.

(2) The treating physician shall notify the employer, and the employee and his or her attorney immediately when an employee is able to return to full or modified work.

(3) There shall be no charge for a health record when that health record is necessary to support any appeal or claim under the Workers' Compensation Act § 23-17-19.1(16). The treating physician shall furnish to the employee, or to his or her legal representative, a medical report, within ten (10) days of the request, stating the diagnosis, disability, loss of use, end result and/or causal relationship of the employee's condition associated with the work related injury. The physician shall be entitled to charge for these services only as enunciated in the State of Rhode Island workers compensation medical fee schedule.

(f)(1) Compensation for medical expenses and other services under § 28-33-5, 28-33-7 or 28-33-8 is due and payable within twenty-one (21) days from the date a request is made for payment of these expenses by the provider of the medical services. In the event payment is not made within twenty-one (21) days from the date a request is made for payment, the provider of medical services may add, and the insurer or self-insurer shall pay, interest at the per annum rate as provided in § 9-21-10 on the amount due. The employee or the medical provider may file a petition with the administrator of the

workers' compensation court which petition shall follow the procedure as authorized in chapter 35 of this title.

(2) The twenty-one (21) day period in subdivision (1) of this subsection shall begin on the date the insurer receives a request with appropriate documentation required to determine whether the claim is compensable and the payment requested is due.

History of Section.

(P.L. 1912, ch. 831, art. 2, § 5; P.L. 1917, ch. 1534, § 2; P.L. 1921, ch. 2095, § 4; G.L. 1923, ch. 92, art. 2, § 5; P.L. 1926, ch. 764, § 4; P.L. 1936, ch. 2290, § 4; P.L. 1936, ch. 2358, § 4; P.L. 1937, ch. 2545, § 1; G.L. 1938, ch. 300, art. 2, § 5; P.L. 1941, ch. 1051, § 1; P.L. 1942, ch. 1226, § 1; P.L. 1947, ch. 1832, § 1; P.L. 1954, ch. 3297, § 1; G.L. 1956, § 28-33-8; P.L. 1960, ch. 128, § 1; P.L. 1969, ch. 111, § 1; P.L. 1979, ch. 391, § 2; P.L. 1982, ch. 32, art. 1, § 6; P.L. 1989, ch. 144, § 1; P.L. 1990, ch. 332, art. 1, § 3; P.L. 1992, ch. 31, § 5; P.L. 1995, ch. 44, § 2; P.L. 1998, ch. 105, § 2; P.L. 1998, ch. 404, § 2; P.L. 2000, ch. 491, § 4; P.L. 2001, ch. 122, § 14; P.L. 2001, ch. 256, § 4; P.L. 2001, ch. 355, § 4; P.L. 2002, ch. 119, § 3; P.L. 2002, ch. 280, § 3; P.L. 2010, ch. 95, § 2; P.L. 2010, ch. 121, § 2.)