

House Engrossed Senate Bill

~~workers' compensation; settings; definition~~
(now: workers' compensation; fee schedule; settings)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 204

SENATE BILL 1042

AN ACT

AMENDING SECTION 23-908, ARIZONA REVISED STATUTES; RELATING TO WORKERS'
COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-908, Arizona Revised Statutes, is amended to
3 read:

4 23-908. Injury reports by employer and physician; schedule of
5 fees; violation; classification

6 A. Every employer that is affected by this chapter, and every
7 physician who attends an injured employee of that employer, shall file
8 with the commission and the employer's insurance carrier from time to time
9 a full and complete report of every known injury to the employee arising
10 out of or in the course of employment and resulting in loss of life or
11 injury. The report shall be furnished to the commission and the insurance
12 carrier at times and in the form and detail the commission prescribes, and
13 the report shall make special answers to all questions required by the
14 commission under its rules.

15 B. The commission shall fix a schedule of fees to be charged by
16 physicians, physical therapists or occupational therapists attending
17 injured employees and, subject to subsection C of this section, for
18 prescription medicines required to treat an injured employee under this
19 chapter. Notwithstanding subsection C of this section, the schedule of
20 fees may include other reimbursement guidelines for medications dispensed
21 in settings that are not accessible to the general public. The commission
22 shall annually review the schedule of fees. **FOR THE PURPOSES OF THIS**
23 **SUBSECTION, SETTINGS THAT ARE NOT ACCESSIBLE TO THE GENERAL PUBLIC DO NOT**
24 **INCLUDE MAIL ORDER PHARMACIES DELIVERING PHARMACEUTICAL SERVICES TO**
25 **WORKERS' COMPENSATION CLAIMANTS, IF BOTH OF THE FOLLOWING APPLY:**

26 1. **THE PHARMACY DOES NOT LIMIT OR RESTRICT ACCESS TO CLAIMANTS WITH**
27 **AN AFFILIATION TO A MEDICAL PROVIDER OR OTHER ENTITY.**

28 2. **ANY MEDICAL PROVIDER OR OTHER ENTITY REFERRING A CLAIMANT TO THE**
29 **PHARMACY DOES NOT RECEIVE OR ACCEPT ANY REBATE, REFUND, COMMISSION,**
30 **PREFERENCE OR OTHER CONSIDERATION AS COMPENSATION FOR THE REFERRAL.**

31 C. If a schedule of fees for prescription medicines adopted
32 pursuant to subsection B of this section includes provisions regarding the
33 use of generic equivalent drugs or interchangeable biological products,
34 those provisions shall comply with section 32-1963.01, subsections A, B
35 and D through L. If the commission considers the adoption of fee schedule
36 provisions that involve specific prices, values or reimbursements for
37 prescription drugs, the commission shall base the adoption on studies or
38 practices that are validated and accepted in the industry, including the
39 applicability of formulas that use average wholesale price, plus a
40 dispensing fee, and that have been made publicly available for at least
41 one hundred eighty days before any hearing conducted by the commission.

42 D. Notwithstanding section 12-2235, information obtained by any
43 physician or surgeon examining or treating an injured person shall not be
44 considered a privileged communication if that information is requested by
45 interested parties for a proper understanding of the case and a
46 determination of the rights involved. Hospital records of an employee

1 concerning an industrial claim shall not be considered privileged if
2 requested by an interested party in order to determine the rights
3 involved. Medical information from any source pertaining to conditions
4 unrelated to the pending industrial claim shall remain privileged.

5 E. When an accident occurs to an employee, the employee shall
6 forthwith report the accident and the injury resulting from the accident
7 to the employer, and any physician employed by the injured employee shall
8 forthwith report the accident and the injury resulting from the accident
9 to the employer, the insurance carrier and the commission.

10 F. If an accident occurs to an employee, the employer may designate
11 in writing a physician chosen by the employer, who shall be ~~permitted~~
12 ~~ALLOWED~~ by the employee, or any person in charge of the employee, to make
13 one examination of the injured employee in order to ascertain the
14 character and extent of the injury occasioned by the accident. The
15 physician so chosen shall forthwith report to the employer, the insurance
16 carrier and the commission the character and extent of the injury as the
17 physician ascertains. If the accident is not reported by the employee or
18 the employee's physician forthwith, as required, or if the injured
19 employee or those in charge of the employee refuse to ~~permit~~ ~~ALLOW~~ the
20 employer's physician to make the examination, and the injured employee is
21 a party to the refusal, no compensation shall be paid for the injury
22 claimed to have resulted from the accident. The commission may relieve
23 the injured person or that person's dependents from the loss or forfeiture
24 of compensation if it believes after investigation that the circumstances
25 attending the failure on the part of the employee or physician to report
26 the accident and injury are such as to have excused them.

27 G. Within ten days after receiving notice of an accident, the
28 employer shall inform the insurance carrier and the commission on the
29 forms and in the manner as prescribed by the commission.

30 H. Immediately on notice to the employer of an accident resulting
31 in an injury to an employee, the employer shall provide the employee with
32 the name and address of the employer's insurance carrier, the policy
33 number and the expiration date.

34 I. Any person failing or refusing to comply with this section is
35 guilty of a petty offense.

36 J. SUBSECTION B OF THIS SECTION DOES NOT PROHIBIT:

37 1. A HEALTHCARE PROVIDER OR PHARMACY FROM ENTERING INTO A SEPARATE
38 CONTRACT OR NETWORK THAT GOVERNS FEES, IN WHICH CASE REIMBURSEMENT SHALL
39 BE MADE ACCORDING TO THE APPLICABLE CONTRACTED CHARGE OR NEGOTIATED RATE.

40 2. AN EMPLOYER FROM DIRECTING MEDICAL, SURGICAL OR HOSPITAL CARE
41 PURSUANT TO THE PROVISIONS OF SECTION 23-1070.

42 Sec. 2. Emergency

43 This act is an emergency measure that is necessary to preserve the
44 public peace, health or safety and is operative immediately as provided by
45 law.

S.B. 1042

APPROVED BY THE GOVERNOR APRIL 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2021.