

PROPOSED

SENATE AMENDMENTS TO H.B. 2120

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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 with
8 the commission and the employer's insurance carrier from time to time a
9 full and complete report of every known injury to the employee arising out
10 of or in the course of employment and resulting in loss of life or injury
11 **REQUIRING MEDICAL TREATMENT**. The report shall be furnished to the
12 commission and the insurance carrier at times and in the form and detail
13 the commission prescribes, and the report shall make special answers to all
14 questions required by the commission under its rules. **FOR THE PURPOSES OF**
15 **THIS SUBSECTION, MEDICAL TREATMENT DOES NOT INCLUDE ANY ONETIME, SHORT-TERM**
16 **TREATMENT BY NONMEDICAL STAFF THAT REQUIRES LITTLE TECHNOLOGY OR TRAINING**
17 **TO ADMINISTER, INCLUDING TREATMENT OF MINOR SCRATCHES, CUTS, BURNS AND**
18 **SPLINTERS AND OTHER ISSUES THAT ORDINARILY DO NOT REQUIRE MEDICAL CARE.**

19 B. The commission shall fix a schedule of fees to be charged by
20 physicians, physical therapists or occupational therapists attending
21 injured employees and, subject to subsection C of this section, for
22 prescription medicines required to treat an injured employee under this
23 chapter. Notwithstanding subsection C of this section, the schedule of
24 fees may include other reimbursement guidelines for medications dispensed
25 in settings that are not accessible to the general public. The commission

1 shall annually review the schedule of fees. For the purposes of this
2 subsection, settings that are not accessible to the general public do not
3 include mail order pharmacies delivering pharmaceutical services to
4 workers' compensation claimants, if both of the following apply:

5 1. The pharmacy does not limit or restrict access to claimants with
6 an affiliation to a medical provider or other entity.

7 2. Any medical provider or other entity referring a claimant to the
8 pharmacy does not receive or accept any rebate, refund, commission,
9 preference or other consideration as compensation for the referral.

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

21 D. Notwithstanding section 12-2235, information obtained by any
22 physician or surgeon examining or treating an injured person shall not be
23 considered a privileged communication if that information is requested by
24 interested parties for a proper understanding of the case and a
25 determination of the rights involved. Hospital records of an employee
26 concerning an industrial claim shall not be considered privileged if
27 requested by an interested party in order to determine the rights
28 involved. Medical information from any source pertaining to conditions
29 unrelated to the pending industrial claim shall remain privileged.

30 E. When an accident occurs to an employee, the employee shall
31 forthwith report the accident and the injury resulting from the accident to
32 the employer, and any physician employed by the injured employee shall

1 forthwith report the accident and the injury resulting from the accident to
2 the employer, the insurance carrier and the commission.

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

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

23 H. Immediately on notice to the employer of an accident resulting in
24 an injury to an employee, the employer shall provide the employee with the
25 name and address of the employer's insurance carrier, the policy number and
26 the expiration date.

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

29 J. Subsection B of this section does not prohibit:

30 1. A ~~healthcare~~ HEALTH CARE provider or pharmacy from entering into
31 a separate contract or network that governs fees, in which case

1 reimbursement shall be made according to the applicable contracted charge
2 or negotiated rate.

3 2. An employer from directing medical, surgical or hospital care
4 pursuant to ~~the provisions of~~ section 23-1070.

5 Sec. 2. Section 23-963.01, Arizona Revised Statutes, is amended to
6 read:

7 23-963.01. Policies with deductible coverage: medical-only
8 loss

9 A. Notwithstanding ~~the provisions of~~ section 23-963, an insurance
10 carrier authorized to transact workers' compensation insurance in this
11 state may offer deductible coverage to employers. Deductible coverage
12 shall be effected by attaching a benefits deductible endorsement to the
13 policy. The endorsement shall specify whether loss adjustment expenses are
14 to be treated as advancements within the deductible to be reimbursed by the
15 employer. The policyholder exercising the deductible option shall choose
16 only one deductible amount. Premium reductions for deductibles shall be
17 determined before ~~application of~~ APPLYING any experience modification,
18 premium surcharge or premium discount. If an insurance carrier offers
19 deductible coverage to an employer, the employer shall submit a certified
20 copy of the employer's most recent financial statement to the insurance
21 carrier to justify the deductible amount the employer chooses. The
22 insurance carrier shall retain a copy of the financial statement for three
23 years.

24 B. Any compensable claim for benefits shall be paid by the
25 carrier. The employer shall reimburse the carrier for any deductible
26 amounts paid by the carrier. The employer is liable for reimbursement up
27 to the limit of the chosen deductible. The payment or nonpayment of
28 deductible amounts by the insured employer to the carrier shall be treated
29 under the policy in the same manner as payment or nonpayment of premiums.

30 C. The nonpayment of deductible amounts by the insured employer to
31 the carrier under subsection B of this section shall not relieve the
32 insurance carrier from ~~payment of~~ PAYING compensation for injuries or death

1 sustained by an employee during the period of time the agreement, contract
2 or policy was in effect. No agreements, contracts or policies providing
3 deductible amounts for workers' compensation coverage shall be terminated
4 retroactively for nonpayment of deductible amounts.

5 D. Losses subject to the deductible shall be reported and recorded
6 as losses for purposes of calculating rates for a policyholder on the same
7 basis as losses under policies providing first dollar coverage.

8 E. NOTWITHSTANDING ANY OTHER LAW, FOR ANY CLAIM INVOLVING
9 MEDICAL-ONLY LOSS, ANY EXPERIENCE RATING ADJUSTMENT AS DETERMINED BY A
10 NATIONAL NONPROFIT INSURANCE RATING ORGANIZATION SHALL BE APPLIED TO REDUCE
11 THE IMPACT OF THE LOSS IN THE EMPLOYER'S EXPERIENCE MODIFICATION
12 CALCULATION. FOR THE PURPOSES OF THIS SUBSECTION, "MEDICAL-ONLY LOSS"
13 MEANS LOSS THAT HAS NO INDEMNITY VALUE REFLECTING LOST WAGES."

14 Amend title to conform

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