

4027

FILED
Feb. 12, 1988
IN THE OFFICE OF
SECRETARY OF STATE
WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

Com. Sub. for
HOUSE BILL No. 4027

(By *Mr. Delegate Knight*)



Passed *January 28,* 1988

In Effect *From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4027
(By DELEGATE KNIGHT)

[Passed January 28, 1988; in effect from passage.]

AN ACT to amend and reenact section three, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exempting the promulgation of the medical fee schedule by the workers' compensation commissioner from the legislative rule-making review process; and penalties for violation.

Be it enacted by the Legislature of West Virginia:

That section three, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-3. Schedule of maximum disbursements for medical, surgical, dental and hospital treatment; legislative approval; charges in excess of scheduled amounts not to be made; contract by employer with hospital, physician, etc., prohibited; penalties for violation.

1 The commissioner shall establish and alter from time
2 to time as he may determine to be appropriate a
3 schedule of the maximum reasonable amounts to be paid

4 to chiropractic physicians, medical physicians, osteopa-
5 thic physicians, podiatrists, optometrists, vocational
6 rehabilitation specialists, pharmacists, ophthalmologists,
7 and others practicing medicine and surgery, surgeons,
8 hospitals or other persons, firms or corporations for the
9 rendering of treatment to injured employees under this
10 chapter. The commissioner also, on the first day of each
11 regular session, and also from time to time, as the
12 commissioner may consider appropriate, shall submit
13 the schedule, with any changes thereto, to the Legisla-
14 ture. The promulgation of the schedule is not subject to
15 the legislative rule-making review procedures estab-
16 lished in sections eleven through fifteen, article three,
17 chapter twenty-nine-a of this code.

18 The commissioner shall disburse and pay from the
19 fund for such personal injuries to such employees as may
20 be entitled thereto hereunder as follows:

21 (a) Such sums for medicines, medical, surgical, dental
22 and hospital treatment, crutches, artificial limbs and
23 such other and additional approved mechanical applian-
24 ces and devices, as may be reasonably required.

25 (b) Payment for such medicine, medical, surgical,
26 dental and hospital treatment, crutches, artificial limbs
27 and such other and additional approved mechanical
28 appliances and devices authorized under subdivision (a)
29 hereof may be made to the injured employee, or to the
30 person, firm or corporation who or which has rendered
31 such treatment or furnished any of the items specified
32 above, or who has advanced payment for same, as the
33 commissioner may deem proper, but no such payments
34 or disbursements shall be made or awarded by him
35 unless duly verified statements on forms prescribed by
36 the commissioner shall be filed with the commissioner
37 within two years after the cessation of such treatment
38 or the delivery of such appliances: *Provided*, That no
39 payment hereunder shall be made unless such verified
40 statement shows no charge for or with respect to such
41 treatment or for or with respect to any of the items
42 specified above has been or will be made against the
43 injured employee or any other person, firm or corpora-
44 tion, and when an employee covered under the provi-

45 sions of this chapter is injured in the course of and as
46 a result of his employment and is accepted for medical,
47 surgical, dental or hospital treatment, the person, firm
48 or corporation rendering such treatment is hereby
49 prohibited from making any charge or charges therefor
50 or with respect thereto against the injured employee or
51 any other person, firm or corporation which would
52 result in a total charge for the treatment rendered in
53 excess of the maximum amount set forth therefor in the
54 commissioner's schedule established as aforesaid.

55 (c) No employer shall enter into any contracts with
56 any hospital, its physicians, officers, agents or employees
57 to render medical, dental or hospital service or to give
58 medical or surgical attention therein to any employee
59 for injury compensable within the purview of this
60 chapter, and no employer shall permit or require any
61 employee to contribute, directly or indirectly, to any
62 fund for the payment of such medical, surgical, dental
63 or hospital service within such hospital for such
64 compensable injury. Any employer violating this section
65 shall be liable in damages to his employees as provided
66 in section eight, article two of this chapter, and any
67 employer or hospital or agent or employee thereof
68 violating the provisions of this section shall be guilty of
69 a misdemeanor, and, upon conviction thereof, shall be
70 punished by a fine not less than one hundred dollars nor
71 more than one thousand dollars or by imprisonment not
72 exceeding one year, or both.

73 (d) When an injury has been reported to the commis-
74 sioner by the employer without protest, the commis-
75 sioner may pay, or order an employer who or which
76 made the election and who or which received the
77 permission mentioned in section nine, article two of this
78 chapter to pay, within the maximum amount provided
79 by schedule established by the commissioner as afore-
80 said, bills for medical or hospital services without
81 requiring the injured employee to file an application for
82 benefits.

83 (e) The commissioner shall provide for the replace-
84 ment of artificial limbs, crutches, hearing aids, eye-
85 glasses and all other mechanical appliances provided in

86 accordance with this section which later wear out, or
87 which later need to be refitted because of the progres-
88 sion of the injury which caused the same to be originally
89 furnished, or which are broken in the course of and as
90 a result of the employee's employment. The fund or self-
91 insured employer shall pay for these devices, when
92 needed, notwithstanding any time limits provided by
93 law.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Blaine O. Dennis

Chairman Senate Committee

Bernard V. Kelly

Chairman House Committee

Originating in the House.

Takes effect from passage.

Judd P. Hulth

Clerk of the Senate

Donald V. Kopp

Clerk of the House of Delegates

Sam Tombeault

President of the Senate

W. H. C. C.

Speaker of the House of Delegates

The within *Approved* this the *10th*
day of *February*, 1988.

Aruba Chace

Governor

PRESENTED TO THE

GOVERNOR

Date 2/5/88

Time 9:05 a.m.