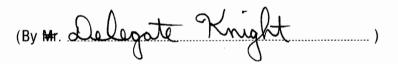
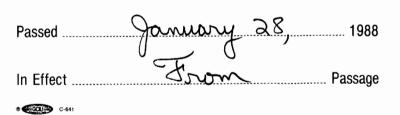


WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

ENROLLED Com. Jul. for HOUSE BILL No. 4027





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

Enr. Com. Sub. for H. B. 4027] 2

to chiropractic physicians, medical physicians, osteopa-4 5 thic physicians, podiatrists, optometrists, vocational rehabilitation specialists, pharmacists, opthamologists. 6 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 commissioner may consider appropriate, shall submit 1213the schedule, with any changes thereto, to the Legisla-14 ture. The promulgation of the schedule is not subject to 15the legislative rule-making review procedures established in sections eleven through fifteen, article three, 16 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:

(a) Such sums for medicines, medical, surgical, dental
and hospital treatment, crutches, artificial limbs and
such other and additional approved mechanical appliances and devices, as may be reasonably required.

(b) Payment for such medicine, medical, surgical, 2526dental and hospital treatment, crutches, artificial limbs 27and such other and additional approved mechanical 28 appliances and devices authorized under subdivision (a) 29hereof may be made to the injured employee, or to the 30 person, firm or corporation who or which has rendered such treatment or furnished any of the items specified 31above, or who has advanced payment for same, as the 3233commissioner may deem proper, but no such payments or disbursements shall be made or awarded by him 34 35 unless duly verified statements on forms prescribed by 36 the commissioner shall be filed with the commissioner 37within two years after the cessation of such treatment or the delivery of such appliances: Provided, That no 38 39payment hereunder shall be made unless such verified statement shows no charge for or with respect to such 40 treatment or for or with respect to any of the items 41 specified above has been or will be made against the 42injured employee or any other person, firm or corpora-43tion, and when an employee covered under the provi-44

45sions 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 49prohibited from making any charge or charges therefor 50or with respect thereto against the injured employee or any other person, firm or corporation which would 5152result in a total charge for the treatment rendered in 53excess of the maximum amount set forth therefor in the 54commissioner's schedule established as aforesaid.

55(c) No employer shall enter into any contracts with 56any hospital, its physicians, officers, agents or employees 57to render medical, dental or hospital service or to give 58medical or surgical attention therein to any employee 59for 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 64compensable 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 70punished by a fine not less than one hundred dollars nor 71more than one thousand dollars or by imprisonment not 72exceeding one year, or both.

73(d) When an injury has been reported to the commis-74sioner by the employer without protest, the commis-75sioner 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 78chapter 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.

(e) The commissioner shall provide for the replacement of artificial limbs, crutches, hearing aids, eyeglasses and all other mechanical appliances provided in

Enr. Com. Sub. for H. B. 4027] 4

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

5 [Enr. Com. Sub. for H. B. 4027

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

Chairman Senate Committee Chairman House Committee Originating in the House. Takes effect from passage. Clerk of the Senate Clerk of the House of Delege an Ionleon President of the Senate Speaker of the House of Delegates this the The within . day 1988. Governor 8 GCU C-641

PRESENTED TO THE GOVERNOR Date $\frac{3/5/88}{9i05.0.m}$.