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HOUSE BILL 500

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Antonio Lujan

AN ACT

RELATING TO WORKERS' COMPENSATION; CHANGING HOW HEALTH CARE PROVIDERS ARE SELECTED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-49 NMSA 1978 (being Laws 1959, Chapter 67, Section 27, as amended) is amended to read:

"52-1-49. MEDICAL AND RELATED BENEFITS--SELECTION OF HEALTH CARE PROVIDER--ARTIFICIAL MEMBERS.--

A. After an injury to a worker and subject to the requirements of the Workers' Compensation Act, and continuing as long as medical or related treatment is reasonably necessary, the employer shall, subject to the provisions of this section, provide the worker in a timely manner reasonable and necessary health care services from a health care provider.

B. The employer shall initially [either] select the

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1 health care provider for the injured worker [~~or permit~~]. The
2 employer shall serve upon the injured worker [~~to make the~~
3 ~~selection~~] a notice in writing of the name and address of the
4 employer's choice of the initial health care provider within
5 ten days of the date the injured worker notified the employer
6 of the work-related accident pursuant to Section 52-1-29 NMSA
7 1978. The director shall adopt rules governing forms to enable
8 this notice to be promptly and efficiently provided. Subject
9 to the provisions of this section, that selection shall be in
10 effect during the first sixty days from the date the [~~worker~~
11 ~~receives treatment from~~] employer notifies the worker in
12 writing of the name and address of the employer's choice of the
13 initially selected health care provider.

14 C. After the expiration of the initial sixty-day
15 period set forth in Subsection B of this section, the [~~party~~
16 ~~who did not make the initial selection~~] injured worker may
17 select a health care provider of his choice. Unless the worker
18 and employer otherwise agree, the [~~party seeking such a change~~]
19 injured worker shall file a notice of the name and address of
20 his choice of health care provider with the [~~other party~~]
21 employer at least ten days before treatment from that health
22 care provider begins. The director shall adopt rules [~~and~~
23 ~~regulations~~] governing forms, which employers shall post in
24 conspicuous places, to enable this notice to be promptly and
25 efficiently provided. This notice may be filed on or after the

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1 fiftieth day of the sixty-day period set forth in Subsection B
2 of this section.

3 D. If [~~a party~~] the employer objects to the choice
4 of health care provider made pursuant to Subsection C of this
5 section, then he shall file an objection to that choice
6 pursuant to Subsection E of this section with a workers'
7 compensation judge within three days from receiving the notice.
8 He shall also provide notice of that objection to the other
9 party. If the employer does not file his objection within the
10 three-day period, then he shall be liable for the cost of
11 treatment provided by the worker's health care provider until
12 the employer does file his objection and the workers'
13 compensation judge has rendered his decision as set forth in
14 Subsection F of this section. [~~If the worker does not file his~~
15 ~~objection within the three-day period, then the employer shall~~
16 ~~only be liable for the cost of treatment from the health care~~
17 ~~provider selected by the employer, subject to the provisions of~~
18 ~~Subsections E, F and G of this section.] Nothing in this
19 section shall remove the employer's obligation to provide
20 reasonable and necessary health care services to the worker so
21 long as the worker complies with the provisions of this
22 section.~~

23 E. If the worker or employer disagrees with the
24 choice of the health care provider of the other party at any
25 time, including the initial sixty-day period, and they cannot

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1 otherwise agree, then he shall submit a request for a change of
2 health care provider to a workers' compensation judge. The
3 director shall adopt rules [~~and regulations~~] governing forms,
4 which employers shall post in conspicuous places, to submit to
5 a workers' compensation judge a request for change of a health
6 care provider.

7 F. The request shall state the reasons for the
8 request and may state the applicant's choice for a different
9 health care provider. The applicant shall bear the burden of
10 proving to the workers' compensation judge that the care being
11 received is not reasonable. The workers' compensation judge
12 shall render his decision within seven days from the date the
13 request was submitted. If the workers' compensation judge
14 grants the request, he shall designate either the applicant's
15 choice of health care provider or a different health care
16 provider.

17 G. If the worker continues to receive treatment or
18 services from a health care provider rejected by the employer
19 and not in compliance with the workers' compensation judge's
20 ruling, then the employer is not required to pay for any of the
21 additional treatment or services provided to that worker by
22 that health care provider.

23 H. In all cases where the injury is such as to
24 permit the use of artificial members, including teeth and eyes,
25 the employer shall pay for the artificial members. "

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