

Amendment No. 1 to SB1574

Stanley
Signature of Sponsor

AMEND Senate Bill No. 1574*

House Bill No. 1472

by deleting all the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 50-6-204(a), is amended by deleting subdivisions (1) and (2) in their entirety and by substituting instead the following language:

(1)

(A) The employer or the employer's agent shall furnish free of charge to the employee such medical care and treatment made reasonably necessary by accident as defined in this chapter, including medical and surgical treatment; medical and surgical supplies; hospitalization; nursing services; psychological services; dental services; crutches; artificial members; and prescription eyeglasses or eyewear.

(B) No medical provider shall charge more than ten dollars (\$10.00) for the first twenty (20) pages or less and twenty-five cents (25¢) per page for each page after the first twenty (20) pages for any medical reports, medical records or documents pertaining to medical treatment or hospitalization of the employee that are furnished pursuant to this subsection.

(2)

(A) It is the intent of the general assembly that the administration of the workers' compensation system proceed in a timely manner and that the parties and the department have reasonable access to the employee's medical records and medical providers that are pertinent to and necessary for the swift resolution of the employee's workers'

compensation claim. Notwithstanding any provision of the law to the contrary, there shall be no implied covenant of confidentiality, prohibition against ex parte communications or privacy of medical records in the custody of authorized treating physicians with respect to case managers, employers, or insurance companies, or their attorneys, if such persons comply with the provisions of subdivision (C).

(B) For the purposes of subdivision (C), "employer" means the employer, the employer's attorney, the employer's insurance carrier or third party administrator, a case manager as authorized by § 50-6-123, and any utilization review agent as authorized by § 50-6-124 during the employee's treatment for the claimed workers' compensation injury.

(C) To facilitate the timely resolution of workers' compensation claims and to facilitate the use of the benefit review process established by this chapter, there shall be reasonable access to an employee's medical information only by compliance with the following:

(i) An employee claiming workers' compensation benefits shall provide the employer or the division of workers' compensation with a signed, written medical authorization form for injuries occurring on or after July 1, 2009. Such form shall be addressed to a specific medical provider authorized by the employer pursuant to this section; shall permit the release of information through communication, either orally or in writing, as authorized under this subdivision (C); and shall plainly state in capitalized lettering on the face of the document the following language:

THIS MEDICAL AUTHORIZATION FORM ONLY PERMITS THE
EMPLOYER OR THE DIVISION OF WORKERS'
COMPENSATION TO OBTAIN MEDICAL INFORMATION

THROUGH ORAL OR WRITTEN COMMUNICATION, INCLUDING, BUT NOT LIMITED TO, CHARTS, FILES, RECORDS, AND REPORTS IN THE POSSESSION OF A MEDICAL PROVIDER AUTHORIZED BY THE EMPLOYER PURSUANT TO T.C.A. § 50-6-204 AND A MEDICAL PROVIDER THAT IS REIMBURSED BY THE EMPLOYER FOR THE EMPLOYEE'S TREATMENT.

(ii) An employee claiming workers' compensation benefits or any attorney representing the employee shall be entitled to obtain medical information, records, or reports from, or communicate in writing or in person with, any medical provider who has treated or provided medical care to the employee provided that the employee executes and provides the medical provider with an appropriate written authorization.

(iii) Any medical provider authorized by the employer pursuant to this section and who has treated or provided medical care to an employee claiming workers' compensation benefits shall not communicate, orally or in writing, with the employer or the department except in the manner permitted by this subdivision.

(iv) Any request by the employer for medical information, medical records, or medical reports pertaining to the claimed workers' compensation injury shall be in writing and a copy of the written request shall be provided to the employee and any attorney representing the employee at the time the written request is sent to the provider.

(v) Any form of written communication by an employer to or with a medical provider as defined by this section, other than a

request pursuant to subdivision (iv), is prohibited unless the employee and any attorney representing the employee are included as recipients of the written communication; are provided copies of any material or information provided to the medical provider; and are provided any response thereto from the medical provider within seven (7) calendar days of the employer's receipt of the response;

(vi) Oral communication, including, but not limited to, telephone or face-to-face conversations, by the employer, other than an attorney representing the employer, with a medical provider authorized by the employer pursuant to this section is permitted upon the condition that in the event such oral communication occurs, the employer representative shall provide the employee or any attorney representing the employee with a written summary of any opinions or statements of the medical provider regarding the employee's injury or illness, medical condition or care during said oral communication within seven (7) days of a request by the employee or any attorney representing the employee.

(vii) Any form of oral communication, including, but not limited to, telephone or face-to-face conversations, by an attorney representing the employer with a medical provider authorized by the employer pursuant to this section is prohibited unless:

(a) The employee and any attorney representing the employee has received written notice of the intended communication at least seven (7) days in advance of the intended oral communication; and

(b) In the event such oral communication occurs, the employer representative shall provide the employee and any attorney representing the employee with a written summary of all opinions and statements of the medical provider during said oral communication within seven (7) days of the communication.

(viii) In the event an employee or employer files a request for assistance with the department requesting assistance with a determination as to whether the claim is compensable or with the determination of an issue related to medical benefits or temporary disability benefits, any request by the department for medical information, medical records, medical reports or medical opinions may be oral or in writing; provided, however, that:

(a) Any response by the medical provider to the department's request shall be provided in writing; and

(b) In the event the department receives documents or written responses to any request for information permitted by this subdivision (viii), the department shall notify the employee, employer and any attorney representing the employee or employer within fourteen (14) days of receipt of the document or written response that such persons may review or copy the documents or responses and, if copies of documents are requested, the requesting party shall pay the copying fee authorized by this subsection (a) before copies are provided.

(ix) In the event the department becomes involved in the appeal of a utilization review issue, the department is authorized to communicate with the medical provider involved in the dispute

either orally or in writing to permit the timely resolution of the issue and shall notify the employee, employer or any attorney representing the employee or employer that they may review or copy the documents or responses and if copies of any written documents are requested, the requesting party shall pay the copying fee authorized by this subsection (a) before copies are provided.

(D) No relevant information developed in connection with authorized medical treatment or examination provided pursuant to this section for which compensation is sought by the employee shall be considered a privileged communication and no medical provider shall incur any liability as a result of providing medical information, medical records, or medical reports as described in subdivision (C) provided that the applicable provisions of subdivision (C) are followed by the medical provider.

SECTION 2. This act shall take effect on July 1, 2009, the public welfare requiring it.