

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing penalties," in liability and compensation,
8 further providing for prescription drugs and the treatment of
9 work-related injuries; and, in procedure, further providing
10 for peer review.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 306(f.1)(3)(vi) of the act of June 2, 1915
14 (P.L.736, No.338), known as the Workers' Compensation Act, is
15 amended by adding a provision and paragraph (6) is amended by
16 adding a subclause to read:

17 Section 306. The following schedule of compensation is
18 hereby established:

19 * * *

20 (f.1) * * *

21 (3) * * *

1 (vi) * * *

2 (J) The department shall select a nationally recognized,
3 evidence-based prescription drug formulary appropriate for
4 resolving issues related to drugs prescribed for or related to
5 the treatment of work-related injuries, including, but not
6 limited to, the type, dosage and duration of prescriptions. The
7 following shall apply:

8 (I) Within thirty (30) days of the effective date of this
9 provision, the department shall solicit public comments
10 regarding the selection of a prescription drug formulary under
11 this provision. The public comment period shall be at least
12 thirty (30) days but not more than ninety (90) days. The
13 department shall publish notice of the public comment period in
14 the Pennsylvania Bulletin.

15 (II) Within thirty (30) days after close of the public
16 comment period under subprovision (I), the department shall
17 publish notice of its selection of a prescription drug formulary
18 in the Pennsylvania Bulletin. The prescription drug formulary
19 shall take effect thirty (30) days after the publication
20 required by this subprovision.

21 (III) The department shall ensure that the current
22 prescription drug formulary is available through its publicly
23 accessible Internet website for reference by physicians and the
24 general public.

25 (IV) The prescription of drugs that is not consistent with
26 or recommended by the prescription drug formulary selected by
27 the department shall not be considered reasonable and necessary
28 for the purposes of paragraph (6).

29 * * *

30 (6) Except in those cases in which a workers' compensation

1 judge asks for an opinion from peer review under section 420,
2 disputes as to reasonableness or necessity of treatment by a
3 health care provider shall be resolved in accordance with the
4 following provisions:

5 * * *

6 (v) The department shall approve only those utilization
7 review organizations that it determines have obtained
8 certification as a utilization review entity under section 2151
9 of the Insurance Company Law of 1921.

10 * * *

11 Section 2. Section 420 of the act is amended to read:

12 Section 420. (a) The board, the department or a workers'
13 compensation judge, if it or he deem it necessary, may, of its
14 or his own motion, either before, during, or after any hearing,
15 make or cause to be made an investigation of the facts set forth
16 in the petition or answer or facts pertinent in any injury under
17 this act. The board, department or workers' compensation judge
18 may appoint one or more impartial physicians or surgeons to
19 examine the injuries of the plaintiff and report thereon, or may
20 employ the services of such other experts as shall appear
21 necessary to ascertain the facts. The workers' compensation
22 judge when necessary or appropriate or upon request of a party
23 in order to rule on requests for review filed under section
24 306(f.1), or under other provisions of this act, may ask for an
25 opinion from peer review about the reasonableness or necessity
26 [or frequency] of treatment under section 306(f.1). The peer
27 review report or the peer report of any physician, surgeon, or
28 expert appointed by the department or by a workers' compensation
29 judge, including the report of a peer review organization, shall
30 be filed with the board or workers' compensation judge, as the

1 case may be, and shall be a part of the record and open to
2 inspection as such. The workers' compensation judge shall
3 consider the report as evidence but shall not be bound by such
4 report.

5 (b) The board or workers' compensation judge, as the case
6 may be, shall fix the compensation of such physicians, surgeons,
7 and experts, and other peer review organizations which, when so
8 fixed, shall be paid out of the Workmen's Compensation
9 Administration Fund.

10 (c) Peer review performed under this section and peer review
11 organizations used under this section shall comply with the
12 requirements established under section 306(f.1)(6).

13 Section 3. This act shall take effect in 60 days.