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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-EIGHTH SESSION

**H. F. No. 1319**

03/06/2013 Authored by Persell, Mahoney, Gunther, Lohmer and Abeler

The bill was read for the first time and referred to the Committee on Labor, Workplace and Regulated Industries

1.1 A bill for an act  
1.2 relating to workers' compensation; modifying conversion factors for chiropractic  
1.3 services; prohibiting steering practices; amending Minnesota Statutes 2012,  
1.4 sections 176.135, subdivision 1; 176.136, subdivision 1a.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 176.135, subdivision 1, is amended to read:

1.7 Subdivision 1. **Medical, psychological, chiropractic, podiatric, surgical, hospital.**

1.8 (a) The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical  
1.9 and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and  
1.10 surgical supplies, crutches and apparatus, including artificial members, or, at the option of  
1.11 the employee, if the employer has not filed notice as hereinafter provided, Christian Science  
1.12 treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may  
1.13 reasonably be required at the time of the injury and any time thereafter to cure and relieve  
1.14 from the effects of the injury. This treatment shall include treatments necessary to physical  
1.15 rehabilitation. The employer must not discourage or in any way influence a patient's  
1.16 decision to pursue chiropractic treatment in lieu of medical treatment or to obtain an MRI.

1.17 (b) The employer shall pay for the reasonable value of nursing services provided by  
1.18 a member of the employee's family in cases of permanent total disability.

1.19 (c) Exposure to rabies is an injury and an employer shall furnish preventative  
1.20 treatment to employees exposed to rabies.

1.21 (d) The employer shall furnish replacement or repair for artificial members, glasses  
1.22 or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial  
1.23 teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising  
1.24 out of and in the course of the employment. For the purpose of this paragraph, "injury"

2.1 includes damage wholly or in part to an artificial member. In case of the employer's  
2.2 inability or refusal seasonably to provide the items required to be provided under this  
2.3 paragraph, the employer is liable for the reasonable expense incurred by or on behalf of  
2.4 the employee in providing the same, including costs of copies of any medical records or  
2.5 medical reports that are in existence, obtained from health care providers, and that directly  
2.6 relate to the items for which payment is sought under this chapter, limited to the charges  
2.7 allowed by subdivision 7, and attorney fees incurred by the employee.

2.8 (e) Both the commissioner and the compensation judges have authority to make  
2.9 determinations under this section in accordance with sections 176.106 and 176.305.

2.10 (f) An employer may require that the treatment and supplies required to be provided  
2.11 by an employer by this section be received in whole or in part from a managed care plan  
2.12 certified under section 176.1351 except as otherwise provided by that section.

2.13 (g) An employer may designate a pharmacy or network of pharmacies that  
2.14 employees must use to obtain outpatient prescription and nonprescription medications. An  
2.15 employee is not required to obtain outpatient medications at a designated pharmacy unless  
2.16 the pharmacy is located within 15 miles of the employee's place of residence.

2.17 (h) Notwithstanding any fees established by rule adopted under section 176.136, an  
2.18 employer may contract for the cost of medication provided to employees.

2.19 Sec. 2. Minnesota Statutes 2012, section 176.136, subdivision 1a, is amended to read:

2.20 Subd. 1a. **Relative value fee schedule.** (a) The liability of an employer for services  
2.21 included in the medical fee schedule is limited to the maximum fee allowed by the  
2.22 schedule in effect on the date of the medical service, or the provider's actual fee, whichever  
2.23 is lower. The commissioner shall adopt permanent rules regulating fees allowable for  
2.24 medical, chiropractic, podiatric, surgical, and other health care provider treatment or  
2.25 service, including those provided to hospital outpatients, by implementing a relative value  
2.26 fee schedule. The commissioner may adopt by reference, according to the procedures in  
2.27 paragraph (h), clause (2), the relative value fee schedule tables adopted for the federal  
2.28 Medicare program. The relative value fee schedule must contain reasonable classifications  
2.29 including, but not limited to, classifications that differentiate among health care provider  
2.30 disciplines. The conversion factors for the original relative value fee schedule must  
2.31 reasonably reflect a 15 percent overall reduction from the medical fee schedule most  
2.32 recently in effect. The reduction need not be applied equally to all treatment or services,  
2.33 but must represent a gross 15 percent reduction.

3.1 (b) Effective October 1, 2005, the commissioner shall remove all scaling factors  
3.2 from the relative value units and establish four separate conversion factors according to  
3.3 paragraphs (c) and (d) for each of the following parts of Minnesota Rules:

3.4 (1) medical/surgical services in Minnesota Rules, part 5221.4030, as defined in part  
3.5 5221.0700, subpart 3, item C, subitem (2);

3.6 (2) pathology and laboratory services in Minnesota Rules, part 5221.4040, as  
3.7 defined in part 5221.0700, subpart 3, item C, subitem (3);

3.8 (3) physical medicine and rehabilitation services in Minnesota Rules, part  
3.9 5221.4050, as defined in part 5221.0700, subpart 3, item C, subitem (4); and

3.10 (4) chiropractic services in Minnesota Rules, part 5221.4060, as defined in part  
3.11 5221.0700, subpart 3, item C, subitem (5).

3.12 (c) The four conversion factors established under paragraph (b) shall be calculated  
3.13 so that there is no change in each maximum fee for each service under the current fee  
3.14 schedule, except as provided in paragraphs (d) and (e).

3.15 (d) ~~By October 1, 2006~~ October 1, 2013, the conversion factor for chiropractic  
3.16 services described in paragraph (b), clause (4), shall be increased to equal ~~72~~ 100 percent  
3.17 of the conversion factor for medical/surgical services described in paragraph (b), clause  
3.18 (1). ~~Beginning October 1, 2005, the increase in chiropractic conversion factor shall be~~  
3.19 ~~phased in over two years by approximately equal percentage point increases.~~

3.20 (e) When adjusting the conversion factors in accordance with paragraph (g) on  
3.21 October 1, 2005, and October 1, 2006, the commissioner may adjust by no less than zero,  
3.22 all of the conversion factors as necessary to offset any overall increase in payments under  
3.23 the fee schedule resulting from the increase in the chiropractic conversion factor.

3.24 (f) The commissioner shall give notice of the relative value units and conversion  
3.25 factors established under paragraphs (b), (c), and (d) according to the procedures in section  
3.26 14.386, paragraph (a). The relative value units and conversion factors established under  
3.27 paragraphs (b), (c), and (d) are not subject to expiration under section 14.386, paragraph (b).

3.28 (g) The conversion factors shall be adjusted as follows:

3.29 (1) After permanent rules have been adopted to implement this section, the conversion  
3.30 factors must be adjusted annually on October 1 by no more than the percentage change  
3.31 computed under section 176.645, but without the annual cap provided by that section.

3.32 (2) Each time the workers' compensation relative value fee schedule tables are  
3.33 updated under paragraph (h), the commissioner shall adjust the conversion factors so that,  
3.34 for services in both fee schedules, there is no difference between the overall payment in each  
3.35 category of service listed in paragraph (b) under the new schedule and the overall payment

4.1 for that category under the workers' compensation fee schedule most recently in effect.

4.2 This adjustment must be made before making any additional adjustment under clause (1).

4.3 (h) The commissioner shall give notice of the adjusted conversion factors and  
4.4 updates to the relative value fee schedule as follows:

4.5 (1) The commissioner shall annually give notice in the State Register of the adjusted  
4.6 conversion factors and any amendments to rules to implement Medicare relative value  
4.7 tables incorporated by reference under this subdivision. The notices of the adjusted  
4.8 conversion factors and amended rules to implement the relative value tables are subject  
4.9 to the requirements of section 14.386, paragraph (a). The annual adjustments to the  
4.10 conversion factors and the medical fee schedules adopted under this section, including all  
4.11 previous fee schedules, are not subject to expiration under section 14.386, paragraph (b).

4.12 (2) The commissioner shall periodically, but at least once every three years, update  
4.13 the workers' compensation relative value tables by incorporating by reference the relative  
4.14 value tables in the national physician fee schedule relative value file established by the  
4.15 Centers for Medicare and Medicaid Services. The commissioner shall publish the notices  
4.16 of the incorporation by reference in the State Register at least 60 days before the tables  
4.17 are to become effective for purposes of payment under this section. Each notice of  
4.18 incorporation must state the date the incorporated tables will become effective and must  
4.19 include information on how the Medicare relative value tables may be obtained. The  
4.20 published notices of incorporation by reference and the incorporated tables are not rules  
4.21 subject to section 14.386 or other provisions of chapter 14, but have the force and effect of  
4.22 law as of the date specified in the notices.