

Duties of director; continuing education, accounting; recovery of expenses; advisory committees; legislative intent regarding reimbursements.

(a) The Director of the Department of Industrial Relations may prescribe rules and regulations for the purpose of conducting continuing education seminars for all personnel associated with workers' compensation claims and collect registration fees in order to cover the related expenditures. The director may adopt rules and regulations setting continuing education standards for workers' compensation claims personnel employed by insurance companies and self-insured employers and groups.

(b) The director shall file annually with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed during the preceding fiscal year. The annual report shall be in the form and reported in the time provided by law.

(c) The director shall establish reasonable charges to recover expenses for services not required by law or rule provided to persons requesting the services from the Department of Industrial Relations.

(d) The director shall appoint appropriate advisory committees on workers' compensation matters, including: An advisory committee consisting of three administrators who are members of the Alabama Hospital Association, who shall be selected by the director from nominations submitted by the Alabama Hospital Association; an advisory committee consisting of three chiropractors who are members in good standing with the Alabama State Chiropractic Association, who shall be selected by the director from nominations submitted by the Alabama State Chiropractic Association; an advisory committee consisting of three pharmacists who are members in good standing with the Alabama Pharmaceutical Association who shall be selected by the director from nominations submitted by the Alabama Pharmaceutical Association; and an advisory committee consisting of three optometrists who are members in good standing with the Alabama Optometric Association who shall be selected by the director from nominations submitted by the Alabama Optometric Association. These committees shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical costs in the State of Alabama. These committees shall make recommendations with regard to the implementation of all other rules and regulations, including, but not limited to, utilization review by like peers. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of medical care and achieving medical cost control.

The director shall also appoint a vocational rehabilitation advisory committee consisting of at least five professional licensed rehabilitation specialists. These rehabilitation specialists shall be selected by the director from nominations from the rehabilitation associations in the State of Alabama, including, but not limited to, the Alabama Physical Therapy Association. The committee shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of rehabilitation costs in the State of Alabama. The committee shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review, and with regard to rehabilitation policies as provided by this article. The committee shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of rehabilitation care and achieving rehabilitation cost control.

(e) The director shall appoint an advisory committee consisting of attorneys who are members in good standing of the Alabama State Bar. This committee shall guide and assist the director in creating and promulgating rules and regulations for the efficient administration of the Ombudsman Program.

Members of the advisory committee shall receive State of Alabama mileage expense which shall be paid by the Department of Industrial Relations.

(f) It is the intent of the Legislature that final reimbursements related to workers' compensation claims be commensurate and in line with the prevailing rate of reimbursement or payment in the State of Alabama, or as otherwise provided in this article. The director shall conduct field audits as necessary to assist the private sector to gain compliance with the legislative intent. The department shall develop administrative rules to facilitate implementation and continuity of the legislative intent of this article. The director, except as otherwise provided in this article, shall not establish the prevailing rate of payment or reimbursement, but may collect data which are construed to be statistically significant as defined by an independent, disinterested consultant. By definition, the prevailing rate of payment or reimbursement is self-defining and self-setting and shall be updated annually. The director may create a statistically valid data base from which prevailing rates of reimbursement or payment shall be ascertained. Except as otherwise provided herein, the prevailing rate of reimbursement or payment for medical services provided under this article shall be effective 30 days after the prevailing rate of reimbursement or payment is discovered, but in no event earlier than six months from May 19, 1992.

(g) Insurance carriers and self-insurers, individual and group, are required to make appropriate payment for services provided under this article. Unless otherwise provided in this article, an insurance carrier or self-insurer, individual or group, shall not pay more than the applicable prevailing rate of reimbursement for medical services. Insurance carriers and self-insurers, individual and group, may have utilization review and medical bill screenings. Utilization review and bill screening shall be performed by qualified individuals or entities to insure the integrity of the services and the quality of cost containment. It is the express legislative intent of this article to ensure that the highest quality health care is available to employees who become injured or ill as the result of employment, at an appropriate rate of provider reimbursement. All insurers, claims adjusters, self-administered employers, and any entity involved in the administration or payment of workers' compensation claims may, but are not required to, implement utilization review and bill screening for health services provided to employees covered under this article. In this regard, employers' liability for reimbursement shall be limited to the prevailing rate or maximum fee schedule established by the Workers' Compensation Services Board for similar treatment. Services provided that are deemed not medically necessary are not reimbursable and the employer is held harmless. In no event is the employee responsible or held liable for any charges associated with an authorized workers' compensation claim. To ensure compliance of providers, insurance carriers, and self-insurers, the director may provide by rule for the review and audit of insurance carriers and self-insurers, individual and group, of payments for medical services. The director may maintain a statewide data base from insurance carriers and self-insurers, individual and group, on medical charges, actual payments, and adjudication methods for use in administering this article.

(h) Claims payors, and insurers operating in Alabama shall, at the director's request, provide the director such data as he or she deems necessary to evaluate costs and quality. The data shall be provided in the form and content to the director's specifications and in a manner deemed timely by the director. The director may gather from health care claims intermediaries that operate in Alabama any claims data related to diagnoses and procedures encountered in the treatment of workers'-compensation-type injury and illness in Alabama. Results from all data gathered shall be made available to employers or their representatives for use in decisions regarding the direction of care or to determine appropriateness of reimbursement.

(i) Beginning immediately after May 19, 1992, and to be completed within six months thereafter, the director may engage an independent firm to identify the initial costs for the program. These initial expenses shall include, but not be limited to, the establishment of a data base to determine prevailing rates, and the conducting of cost analysis for appropriate reimbursement rates to hospitals and other facilities.

(j) A person who performs services for the director pertaining to the policies of any advisory committee or

board is immune from civil liability against any claim arising out of, or related to, any decision made in good faith, and without malice, and predicated upon information which was then available to the person. Immunity from liability under this section does not apply to a person providing medical treatment to an injured employee.

(k) Notwithstanding any other provision of this section to the contrary, it is the intent of this section that any and all utilization review, bill screening, medical necessity determinations, or audits which relate to the services of physicians as defined in Section 25-5-310 shall only be conducted under and in accordance with policies, guidelines, or regulations which have been jointly approved by the Workers' Compensation Medical Services Board and the director under the provisions of Section 25-5-312, as and when such policies, guidelines, criteria, and regulations are adopted in a final and effective form pursuant to the Alabama Administrative Procedure Act. Not later than six months from May 19, 1992, the director, with the approval of the board, shall publish a notice of the intended action in Alabama Administrative Monthly to adopt initial policies, guidelines, criteria, or regulations for utilization review, medical necessity determinations, and bill screenings; however, each insurer, self-insured employer, claims administrator, or other payor may continue utilization review, medical necessity determinations, and bill screenings unaffected by this article during the first six months from May 19, 1992, or until such policies, guidelines, criteria, or regulations may become effective in a final adopted form within that initial six-month period. If such above referenced pending policies, guidelines, criteria, or regulations have not become effective in a final form pursuant to the Administrative Procedure Act after six months from May 19, 1992, then until such time as they are finally adopted, each insurer, self-insured employer, or claims administrator shall conduct utilization review, medical necessity determinations, and bill screenings in a manner that is consistent with similar practices of a majority of commercial insurance companies authorized to issue policies of health insurance in this state. Any amendments, including additions or deletions, to the initial policies, guidelines, criteria, or regulations shall be adopted in accordance with the requirements of this section and Section 25-5-312.

(Acts 1992, No. 92-537, p. 1082, §40; Acts 1995, No. 95-772, p. 1830, §1.)