~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 16, 2022

**S. 366**

Introduced by Senators Talley, Hutto and Malloy

S. Printed 3/16/22--S.

Read the first time January 12, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 366) to amend Section 42-15-60, Code of Laws of South Carolina, 1976, relating to the time period medical treatment and supplies are furnished, so as to, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words, and inserting therein the following:

/ SECTION 1. Section 42-17-40(A) of the 1976 Code is amended to read:

“(A) The commission or any of its members shall hear the parties at issue and their representatives and witnesses and shall determine the dispute in a summary manner in view of the entire record. Pursuant to Section 1-23-330, the following documents shall be admissible in any format, provided the adverse party is afforded a reasonable opportunity for cross-examination of the health care provider: (1) health care records, (2) all forms prescribed by the Workers’ Compensation Commission, and (3) opinions of duly licensed health care providers. The award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the questions at issue, must be filed with the record of the proceedings and a copy of the award must immediately be sent to the parties in dispute. The parties may be heard by a deputy, in which event he shall swear or cause the witnesses to be sworn and shall transmit all testimony to the commission for its determination and award.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill modifies the evidentiary requirements for the Workers’ Compensation Commission (WCC) to judge whether an extension of employer covered medical treatment beyond ten weeks. WCC judges whether extended coverage is required in the normal course of business. Therefore, this bill will have no expenditure impact for WCC.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 42-15-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TIME PERIOD MEDICAL TREATMENT AND SUPPLIES ARE FURNISHED, SO AS TO CLARIFY THAT MEDICAL TREATMENT AND SUPPLIES ARE FURNISHED FOR ANY ADDITIONAL TIME THAT THE JUDGMENT OF THE WORKERS’ COMPENSATION COMMISSION ESTABLISHED, BY THE PREPONDERANCE OF EVIDENCE CONTAINED IN THE MEDICAL RECORDS OR BY THE OPINION OF A MEDICAL PROVIDER, WILL LESSEN THE PERIOD OF DISABILITY; AND TO AMEND SECTION 42-17-40, RELATING TO THE CONDUCT OF A WORKERS’ COMPENSATION COMMISSION HEARING SO AS TO PROVIDE THAT MEDICAL RECORDS AND OPINIONS OF MEDICAL PROVIDERS ARE ADMISSIBLE WITHOUT REGARD TO THE RULES OF EVIDENCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 42-15-60(A) of the 1976 Code is amended to read:

“Section 42-15-60. (A) The employer shall provide medical, surgical, hospital, and other treatment, including medical and surgical supplies as reasonably may be required, for a period not exceeding ten weeks from the date of an injury, to effect a cure or give relief and for ~~an~~ any additional time as that in the judgment of the commission established by the preponderance of the evidence contained in the medical records or by the opinion of a medical provider stated to a reasonable degree of medical certainty will tend to lessen the period of disability ~~as evidenced by expert medical evidence stated to a reasonable degree of medical certainty~~. ~~In addition to it, the~~ If any original artificial ~~members~~ member is ~~as~~ reasonably ~~may be~~ necessary, it must be provided by the employer. During any period of disability resulting from the injury, the employer, at his own option, may continue to furnish or cause to be furnished, free of charge to the employee, and the employee shall accept, an attending physician and any medical care or treatment that is considered necessary by the attending physician, unless otherwise ordered by the commission for good cause shown. The refusal of an employee to accept any medical, hospital, surgical, or other treatment or evaluation when provided by the employer or ordered by the commission bars the employee from further compensation until the refusal ceases and compensation is not paid for the period of refusal unless in the opinion of the commission the circumstances justified the refusal, in which case the commission may order a change in the medical or hospital service. If in an emergency, on account of the employer’s failure to provide the medical care as specified in this section, a physician other than provided by the employer is called to treat the employee, the reasonable cost of the service must be paid by the employer, if ordered by the commission.”

SECTION 2. Section 42-17-40(A) of the 1976 Code is amended to read:

“Section 42-17-40. (A) The commission or any of its members shall hear the parties at issue and their representatives and witnesses and shall determine the dispute in a summary manner. Medical records and opinions of medical providers are admissible without regard to the rules of evidence. The award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the questions at issue, must be filed with the record of the proceedings and a copy of the award must immediately be sent to the parties in dispute. The parties may be heard by a deputy, in which event he shall swear or cause the witnesses to be sworn and shall transmit all testimony to the commission for its determination and award.”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑