

PUBLIC CHAPTER NO. 858

SENATE BILL NO. 3731

By Haynes, Ketron

Substituted for: House Bill No. 3582

By Coleman

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-204(g)(2), is amended by deleting the entire subdivision and substituting instead the following:

(g)(2)(A) If an employer denies it is required to provide or refuses to provide medical care and treatment, medical services or medical benefits, or both, that an employee contends should be provided as a result of a judgment or decree entered by a court following a workers' compensation trial or as a result of a workers' compensation settlement agreement approved by a court or by the commissioner or the commissioner's designee pursuant to § 50-6-206, either the employee or the employer, or the attorney for the employee or employer, may request the assistance of a workers' compensation specialist to determine whether such medical care and treatment, medical services or medical benefits, or both, are appropriate by filing with the division a form prescribed for that purpose by the commissioner.

(B) A workers' compensation specialist shall have the authority to determine whether it is appropriate to order the employer or the employer's insurer to provide specific medical care and treatment, medical services or medical benefits, or both, to the employee pursuant to a judgment or decree entered by a court following a workers' compensation trial or pursuant to a workers' compensation settlement agreement approved by a court or by the commissioner or the commissioner's designee pursuant to § 50-6-206. The specialist's authority shall include, but is not limited to, the authority to order specific medical care and treatment, medical services or medical benefits, or both, and any authority granted to a specialist by § 50-6-238(a)(3). The specialist's authority shall also include any authority granted to a court by § 50-6-204(b)(2), to award attorney fees and reasonable costs that include reasonable and necessary court reporter expenses and expert witness fees for depositions.

(C) Upon receipt of the request for assistance, the specialist shall review the available information and then, after such review, enter an order, on a form prescribed by the commissioner, in accord with the following:

(i) If the employer, or the employer's insurer, agrees it will provide medical care and treatment, medical services or medical benefits, or both, requested by the employee, the specialist shall issue an agreed order specifying the medical care and treatment to be provided by the employer and if the employer fails to comply with the agreed order, the specialist shall enter an order directing the employer or the employer's insurer to provide specific medical care and treatment; and

(ii) If the employer does not agree to provide the medical care and treatment at issue, the specialist shall enter an order as to whether the employer shall provide medical care and treatment, medical services or medical benefits, or both, to the employee, and if so, the specific medical care and treatment, medical services or medical benefits, or both, that shall be provided to the employee.

(D) If either the employee or the employer disagrees with the order entered by the specialist pursuant to subdivision (g)(2)(C)(ii), the following shall apply:

(i) If the request for assistance involved a request for medical care or treatment pursuant to a court judgment or decree following a trial of the underlying workers' compensation claim, then either the employer or the employee may appeal the specialist's order to the original court that issued the judgment or decree. The parties shall attach a copy of the specialist's order to any request for review that is filed in the original court; however, any review by the original court shall be de novo; and

(ii) If the request for assistance involved a request for medical care and treatment pursuant to a settlement approved by a court of competent jurisdiction or by the commissioner or the commissioner's designee pursuant to § 50-6-206, and either the employee or the employer disagrees with the order of the specialist, the aggrieved party may request administrative review pursuant to § 50-6-238(d) and all provisions of § 50-6-238(d) shall apply to the request. If administrative review is not requested, the order of the specialist shall be considered a final order for administrative purposes. If administrative review is requested, the order of the administrator or administrator's designee shall be considered a final order for

administrative purposes, if not otherwise stated in the order.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 12, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of April 2010



PHIL BREDESEN, GOVERNOR