342.020 Medical treatment at expense of employer -- Duration of employer's obligation -- Continuation of benefits -- Selection of physician and hospital -- Payment -- Managed health care system -- Artificial members and braces -- Waiver of privilege -- Disclosure of interest in referrals -- Urine drug screenings -- Pharmacist services and procedures.

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter for the length of time set forth in this section, or as may be required for the cure and treatment of an occupational disease.

(2) In claims resulting in an award of permanent total disability or resulting from an injury described in subsection (9) of this section, the employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits.

(3) (a) In all permanent partial disability claims not involving an injury described in subsection (9) of this section, the employer's obligation to pay the benefits specified in this section shall continue for seven hundred eighty (780) weeks from the date of injury or date of last exposure.

(b) In all permanent partial disability claims not involving an injury described in subsection (9) of this section, the commissioner shall, in writing, advise the employee of the right to file an application for the continuation of benefits as described in this section. This notice shall be made to the employee seven hundred fifty-four (754) weeks from the date of injury or last exposure.

(c) An employee shall receive a continuation of benefits as described in this section for additional time beyond the period provided in paragraph (a) of this subsection as long as continued medical treatment is reasonably necessary and related to the work injury or occupational disease if:

1. An application is filed within seventy-five (75) days prior to the termination of the seven hundred eighty (780) week period;

2. The employee demonstrates that continued medical treatment is reasonably necessary and related to the work injury or occupational disease; and

3. An administrative law judge determines and orders that continued benefits are reasonably necessary and related to the work injury or occupational disease for additional time beyond the original seven hundred eighty (780) week period provided in paragraph (a) of this subsection.

(d) If the administrative law judge determines that medical benefits are not reasonably necessary or not related to the work injury or occupational disease, or if an employee fails to make proper application for continued benefits within the time period provided in paragraph (c) of this subsection, any future medical treatment shall be deemed to be unrelated to the work injury and the

employer's obligation to pay medical benefits shall cease permanently.

(4) In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee. The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered. Except as provided in subsection (7) of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.

(5) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.

(6) Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.

(7) All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

(a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;

(b) The employee shall be allowed choice of provider within the plan;

(c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;

(d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;

(e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;

(f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the

frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and

(g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.

(h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.

(i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.

(8) Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.

(9) When a compensable injury or occupational disease results in the amputation or partial amputation of an arm, hand, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, or permanent total or permanent partial paralysis, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.

(10) Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.

(11) An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care

provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.

(12) When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

(13) (a) Except as provided in paragraphs (b) and (c) of this subsection, the employer, insurer, or payment obligor shall not be liable for urine drug screenings of patients in excess of:

1. One (1) per year for a patient considered to be low-risk;
2. Two (2) per year for a patient considered to be moderate-risk; and
3. Four (4) per year for patients considered to be high-risk;

based upon the screening performed by the treating medical provider and other pertinent factors.

(b) The employer, insurer, or payment obligor may be liable for urine drug screening at each office visit for patients that have exhibited aberrant behavior documented by multiple lost prescriptions, multiple requests for early refills of prescriptions, multiple providers prescribing or dispensing opioids or opioid substitutes as evidenced by the electronic monitoring system established in KRS 218A.202 or a similar system, unauthorized dosage escalation, or apparent intoxication.

(c) The employer, insurer, or payment obligor may request additional urine drug screenings which shall not count toward the maximum number of drug screenings enumerated in paragraph (a) of this subsection.

(d) The commissioner shall promulgate administrative regulations related to urine drug screenings as part of the practice parameters or treatment guidelines required under KRS 342.035.

(14) (a) As used in this subsection, "practice of pharmacy" has the same meaning as in KRS 315.010.

(b) In addition to all other compensation that may be reimbursed to a pharmacist under this chapter, the employer, insurer, or payment obligor shall be liable for the reimbursement of a pharmacist for a service or procedure at a rate not less than that provided to other nonphysician practitioners if the service or procedure:

1. Is within the scope of the practice of pharmacy;
2. Would otherwise be compensable under this chapter if the service or procedure were provided by a:

a. Physician;

b. Advanced practice registered nurse; or

c. Physician assistant; and

3. Is performed by the pharmacist in strict compliance with laws and administrative regulations related to the pharmacist's license.

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History: Amended 2021 Ky. Acts ch. 30, sec. 6, effective June 29, 2021. -- Amended 2018 Ky. Acts ch. 40, sec. 1, effective July 14, 2018. -- Amended 2010 Ky. Acts ch. 24, sec. 1780, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 514, sec. 2, effective July 14, 2000. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 2, effective December 12, 1996. -- Amended 1996 Ky. Acts ch. 355, sec. 4, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 181, Part 5, sec. 17, effective April 4, 1994; and ch. 512, part 6, sec. 20, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 446, sec. 6, effective July 14, 1992. -- Amended 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 5, effective October 26, 1987. -- Amended 1972 Ky. Acts ch. 78, sec. 21. -- Amended 1970 Ky. Acts ch. 6, sec. 1. -- Amended 1964 Ky. Acts ch. 192, sec. 4. -- Amended 1960 Ky. Acts ch. 147, sec. 2. -- Amended 1956 Ky. Acts ch. 77, sec. 3. -- Amended 1952 Ky. Acts ch. 182, sec. 1. -- Amended 1950 Ky. Acts ch. 198, sec. 1. -- Amended 1948 Ky. Acts ch. 64, sec. 2. -- Amended 1946 Ky. Acts ch. 37, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4883.

Legislative Research Commission Note (7/14/2018). This statute was amended in Section 1 of 2018 Ky. Acts ch. 40. Subsection (1) of Section 20 of that Act reads, "Sections 1, 3, and 12 of this Act shall apply to any claim arising from an injury or occupational disease or last exposure to the hazards of an occupational disease or cumulative trauma occurring on or after the effective date of this Act."