

ployer was the owner, owner pro hac vice, agent, operator, or charterer of the vessel, no such action shall be permitted, in whole or in part or directly or indirectly, against the injured person's employer (in any capacity, including as the vessel's owner, owner pro hac vice, agent, operator, or charterer) or against the employees of the employer" for "If such person was employed by the vessel to provide ship building or repair services, no such action shall be permitted if the injury was caused by the negligence of persons engaged in providing ship building or repair services to the vessel".

Subsec. (c). Pub. L. 98-426, §5(b), added subsec. (c).

1972—Pub. L. 92-576 designated existing provisions as subsec. (a), substituted "the chapter" for "this chapter", and added subsec. (b).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 4(b) of Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after Sept. 28, 1984, and to claims pending on that date, and amendment by section 5(a)(1), (b) of Pub. L. 98-426 applicable with respect to any injury after Sept. 28, 1984, see section 28(a), (c) of Pub. L. 98-426, set out as a note under section 901 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

### § 906. Compensation

#### (a) Time for commencement

No compensation shall be allowed for the first three days of the disability, except the benefits provided for in section 907 of this title: *Provided, however,* That in case the injury results in disability of more than fourteen days the compensation shall be allowed from the date of the disability.

#### (b) Maximum rate of compensation

(1) Compensation for disability or death (other than compensation for death required by this chapter to be paid in a lump sum) shall not exceed an amount equal to 200 per centum of the applicable national average weekly wage, as determined by the Secretary under paragraph (3).

(2) Compensation for total disability shall not be less than 50 per centum of the applicable national average weekly wage determined by the Secretary under paragraph (3), except that if the employee's average weekly wages as computed under section 910 of this title are less than 50 per centum of such national average weekly wage, he shall receive his average weekly wages as compensation for total disability.

(3) As soon as practicable after June 30 of each year, and in any event prior to October 1 of such year, the Secretary shall determine the national average weekly wage for the three consecutive calendar quarters ending June 30. Such determination shall be the applicable national average weekly wage for the period beginning with October 1 of that year and ending with September 30 of the next year. The initial determination under this paragraph shall be made as soon as practicable after October 27, 1972.

#### (c) Applicability of determinations

Determinations under subsection (b)(3) with respect to a period shall apply to employees or survivors currently receiving compensation for permanent total disability or death benefits during such period, as well as those newly awarded compensation during such period.

(Mar. 4, 1927, ch. 509, §6, 44 Stat. 1426; June 24, 1948, ch. 623, §1, 62 Stat. 602; July 26, 1956, ch. 735, §1, 70 Stat. 654; Pub. L. 87-87, §1, July 14, 1961, 75 Stat. 203; Pub. L. 92-576, §§4, 5(a), Oct. 27, 1972, 86 Stat. 1252; Pub. L. 98-426, §6, Sept. 28, 1984, 98 Stat. 1641.)

#### AMENDMENTS

1984—Subsec. (b)(1). Pub. L. 98-426, §6(a), substituted provisions setting a maximum compensation for disability on death of 200 per centum of the applicable national average weekly wage as determined by the Secretary for former provisions which had set out a schedule of progressive percentages of 125 per centum or \$167, whichever is greater, during the period ending September 30, 1973, 150 per centum during the period beginning October 1, 1973, and ending September 30, 1974, 175 per centum during the period beginning October 1, 1974, and ending September 30, 1975, and 200 per centum beginning October 1, 1975.

Subsecs. (c), (d). Pub. L. 98-426, §6(b), redesignated subsec. (d) as (c) and substituted "under subsection (b)(3)" for "under this subsection". Former subsec. (c), which had directed that the maximum rate of compensation for a nonappropriated fund instrumentality employee be equal to 66% per centum of the maximum rate of basic pay established for a Federal employee in grade GS-12 by section 5332 of title 5 and the minimum rate of compensation for such an employee be equal to 66% per centum of the minimum rate of basic pay established for a Federal employee in grade GS-2 by such section, was struck out.

1972—Subsec. (a). Pub. L. 92-576, §4, substituted "fourteen days" for "twenty-eight days".

Subsecs. (b) to (d). Pub. L. 92-576, §5(a) added subsecs. (b) to (d) and struck out former subsec. (b) compensation for disability provisions which prescribed a \$70 per week limit, a \$18 per week minimum for total disability, and provided that if the employee's average weekly wages, as computed under section 910 of this title, were less than \$18 per week he should receive as compensation for total disability his average weekly wages.

1961—Subsec. (b). Pub. L. 87-87 increased limitation on compensation for disability from "\$54" to "\$70" per week.

1956—Subsec. (a). Act July 26, 1956, substituted "three days" for "seven days" and "twenty-eight days" for "forty-nine days".

Subsec. (b). Act July 26, 1956, substituted "\$54" for "\$35", and "\$18" for "\$12" in two places.

1948—Subsec. (b). Act June 24, 1948, increased maximum weekly compensation from \$25 to \$35 and the minimum from \$9 to \$12 in two places.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 6(a) of Pub. L. 98-426 applicable with respect to any death after Sept. 28, 1984, and amendment by section 6(b) of Pub. L. 98-426 applicable with respect to any injury, disability, or death after Sept. 28, 1984, see section 28(d), (f) of Pub. L. 98-426, set out as a note under section 901 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

#### EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-87, §4, July 14, 1961, 75 Stat. 204, provided that: "The amendments made by the foregoing provisions of this Act [amending this section and sections 909 and 914 of this title] shall become effective as to injuries or death sustained on or after the date of enactment [July 14, 1961]."

#### EFFECTIVE DATE OF 1956 AMENDMENT

Act July 26, 1956, ch. 735, §9, 70 Stat. 656, provided that: "The amendments made by the first section and

sections 2, 4, and 5 of this Act [amending this section and sections 908, 909, and 914 of this title] shall be applicable only with respect to injuries and death occurring on or after the date of enactment of this Act [July 26, 1956] notwithstanding the provisions of the Act of December 2, 1942, as amended (42 U.S.C. sec. 1701 et seq.)."

EFFECTIVE DATE OF 1948 AMENDMENT

Act June 24, 1948, ch. 623, § 6, 62 Stat. 604, provided that: "The provisions of this Act [amending this section and sections 908, 909, 910, and 914 of this title] shall be applicable only to injuries or deaths occurring on or after the effective date hereof [June 24, 1948]."

**§ 907. Medical services and supplies**

**(a) General requirement**

The employer shall furnish such medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require.

**(b) Physician selection; administrative supervision; change of physicians and hospitals**

The employee shall have the right to choose an attending physician authorized by the Secretary to provide medical care under this chapter as hereinafter provided. If, due to the nature of the injury, the employee is unable to select his physician and the nature of the injury requires immediate medical treatment and care, the employer shall select a physician for him. The Secretary shall actively supervise the medical care rendered to injured employees, shall require periodic reports as to the medical care being rendered to injured employees, shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished, and may, on his own initiative or at the request of the employer, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the employee or where the charges exceed those prevailing within the community for the same or similar services or exceed the provider's customary charges. Change of physicians at the request of employees shall be permitted in accordance with regulations of the Secretary.

**(c) Physicians and health care providers not authorized to render medical care or provide medical services**

(1)(A) The Secretary shall annually prepare a list of physicians and health care providers in each compensation district who are not authorized to render medical care or provide medical services under this chapter. The names of physicians and health care providers contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting and in such other forms as the Secretary may prescribe.

(B) Physicians and health care providers shall be included on the list of those not authorized to provide medical care and medical services pursuant to subparagraph (A) when the Secretary determines under this section, in accordance with the procedures provided in subsection (j), that such physician or health care provider—

(i) has knowingly and willfully made, or caused to be made, any false statement or mis-

representation of a material fact for use in a claim for compensation or claim for reimbursement of medical expenses under this chapter;

(ii) has knowingly and willfully submitted, or caused to be submitted, a bill or request for payment under this chapter containing a charge which the Secretary finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community or in excess of the provider's customary charges, unless the Secretary finds there is good cause for the bill or request containing the charge;

(iii) has knowingly and willfully furnished a service, appliance, or supply which is determined by the Secretary to be substantially in excess of the need of the recipient thereof or to be of a quality which substantially fails to meet professionally recognized standards;

(iv) has been convicted under any criminal statute (without regard to pending appeal thereof) for fraudulent activities in connection with any Federal or State program for which payments are made to physicians or providers of similar services, appliances, or supplies; or

(v) has otherwise been excluded from participation in such program.

(C) Medical services provided by physicians or health care providers who are named on the list published by the Secretary pursuant to subparagraph (A) of this section<sup>1</sup> shall not be reimbursable under this chapter; except that the Secretary shall direct the reimbursement of medical claims for services rendered by such physicians or health care providers in cases where the services were rendered in an emergency.

(D) A determination under subparagraph (B) shall remain in effect for a period of not less than three years and until the Secretary finds and gives notice to the public that there is reasonable assurance that the basis for the determination will not reoccur.

(E) A provider of a service, appliance, or supply shall provide to the Secretary such information and certification as the Secretary may require to assure that this subsection is enforced.

(2) Whenever the employer or carrier acquires knowledge of the employee's injury, through written notice or otherwise as prescribed by the chapter, the employer or carrier shall forthwith authorize medical treatment and care from a physician selected by an employee pursuant to subsection (b). An employee may not select a physician who is on the list required by paragraph (1) of this subsection. An employee may not change physicians after his initial choice unless the employer, carrier, or deputy commissioner has given prior consent for such change. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.

<sup>1</sup> So in original. Probably should be "this paragraph".