

House Engrossed

industrial commission; fee schedule; notice

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2202

AN ACT

AMENDING SECTION 23-908, ARIZONA REVISED STATUTES; RELATING TO WORKERS'  
COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-908, Arizona Revised Statutes, is amended to  
3 read:

4 23-908. Injury reports by employer and physician; schedule of  
5 fees; notification; public meeting; violation;  
6 classification

7 A. Every employer that is affected by this chapter, and every  
8 physician who attends an injured employee of that employer, shall file  
9 with the commission and the employer's insurance carrier from time to time  
10 a full and complete report of every known injury to the employee arising  
11 out of or in the course of employment and resulting in loss of life or  
12 injury. The report shall be furnished to the commission and the insurance  
13 carrier at times and in the form and detail the commission prescribes, and  
14 the report shall make special answers to all questions required by the  
15 commission under its rules.

16 B. The commission shall fix a schedule of fees to be charged by  
17 physicians, physical therapists or occupational therapists attending  
18 injured employees and, subject to subsection C of this section, for  
19 prescription medicines required to treat an injured employee under this  
20 chapter. Notwithstanding subsection C of this section, the schedule of  
21 fees may include other reimbursement guidelines for medications dispensed  
22 in settings that are not accessible to the general public. The commission  
23 shall annually review the schedule of fees. For the purposes of this  
24 subsection, settings that are not accessible to the general public do not  
25 include mail order pharmacies delivering pharmaceutical services to  
26 workers' compensation claimants, if both of the following apply:

27 1. The pharmacy does not limit or restrict access to claimants with  
28 an affiliation to a medical provider or other entity.

29 2. Any medical provider or other entity referring a claimant to the  
30 pharmacy does not receive or accept any rebate, refund, commission,  
31 preference or other consideration as compensation for the referral.

32 C. If a schedule of fees for prescription medicines adopted  
33 pursuant to subsection B of this section includes provisions regarding the  
34 use of generic equivalent drugs or interchangeable biological products,  
35 those provisions shall comply with section 32-1963.01, subsections A, B  
36 and D through L. If the commission considers the adoption of fee schedule  
37 provisions that involve specific prices, values or reimbursements for  
38 prescription drugs, the commission shall base the adoption on studies or  
39 practices that are validated and accepted in the industry, including the  
40 applicability of formulas that use average wholesale price, plus a  
41 dispensing fee, and that have been made publicly available for at least  
42 one hundred eighty days before any hearing conducted by the commission.  
43 **BEFORE THE COMMISSION TAKES FINAL ACTION ON THE SCHEDULE OF FEES PURSUANT**  
44 **TO THIS SUBSECTION AND SUBSECTION B OF THIS SECTION, EXCEPT DURING A**  
45 **PUBLIC HEALTH EMERGENCY, THE COMMISSION SHALL:**

1           1. PROMINENTLY POST ON ITS PUBLICLY ACCESSIBLE WEBSITE THE PROPOSED  
2 SCHEDULE OF FEES AT LEAST THIRTY DAYS BEFORE CONDUCTING A PUBLIC HEARING  
3 ON THAT PROPOSED SCHEDULE OF FEES.

4           2. HOLD AT LEAST ONE MEETING THAT ALL INTERESTED PARTIES MAY  
5 JOINTLY ATTEND AND INTERACTIVELY PARTICIPATE IN AFTER POSTING THE PROPOSED  
6 SCHEDULE OF FEES BUT BEFORE CONDUCTING THE HEARING ON THE PROPOSED  
7 SCHEDULE OF FEES.

8           3. AT LEAST SEVEN BUSINESS DAYS IN ADVANCE, PROMINENTLY POST ON ITS  
9 PUBLICLY ACCESSIBLE WEBSITE THE FINAL PROPOSED SCHEDULE OF FEES TO BE  
10 ACTED ON FOR ADOPTION.

11           D. Notwithstanding section 12-2235, information obtained by any  
12 physician or surgeon examining or treating an injured person shall not be  
13 considered a privileged communication if that information is requested by  
14 interested parties for a proper understanding of the case and a  
15 determination of the rights involved. Hospital records of an employee  
16 concerning an industrial claim shall not be considered privileged if  
17 requested by an interested party in order to determine the rights  
18 involved. Medical information from any source pertaining to conditions  
19 unrelated to the pending industrial claim shall remain privileged.

20           E. When an accident occurs to an employee, the employee shall  
21 forthwith report the accident and the injury resulting from the accident  
22 to the employer, and any physician employed by the injured employee shall  
23 forthwith report the accident and the injury resulting from the accident  
24 to the employer, the insurance carrier and the commission.

25           F. If an accident occurs to an employee, the employer may designate  
26 in writing a physician chosen by the employer, who shall be allowed by the  
27 employee, or any person in charge of the employee, to make one examination  
28 of the injured employee in order to ascertain the character and extent of  
29 the injury occasioned by the accident. The physician so chosen shall  
30 forthwith report to the employer, the insurance carrier and the commission  
31 the character and extent of the injury as the physician ascertains. If  
32 the accident is not reported by the employee or the employee's physician  
33 forthwith, as required, or if the injured employee or those in charge of  
34 the employee refuse to allow the employer's physician to make the  
35 examination, and the injured employee is a party to the refusal, no  
36 compensation shall be paid for the injury claimed to have resulted from  
37 the accident. The commission may relieve the injured person or that  
38 person's dependents from the loss or forfeiture of compensation if it  
39 believes after investigation that the circumstances attending the failure  
40 on the part of the employee or physician to report the accident and injury  
41 are such as to have excused them.

42           G. Within ten days after receiving notice of an accident, the  
43 employer shall inform the insurance carrier and the commission on the  
44 forms and in the manner as prescribed by the commission.

1           H. Immediately on notice to the employer of an accident resulting  
2 in an injury to an employee, the employer shall provide the employee with  
3 the name and address of the employer's insurance carrier, the policy  
4 number and the expiration date.

5           I. Any person failing or refusing to comply with this section is  
6 guilty of a petty offense.

7           J. Subsection B of this section does not prohibit:

8           1. A ~~healthcare~~ HEALTH CARE provider or pharmacy from entering into  
9 a separate contract or network that governs fees, in which case  
10 reimbursement shall be made according to the applicable contracted charge  
11 or negotiated rate.

12           2. An employer from directing medical, surgical or hospital care  
13 pursuant to ~~the provisions of~~ section 23-1070.

14           Sec. 2. Emergency

15           This act is an emergency measure that is necessary to preserve the  
16 public peace, health or safety and is operative immediately as provided by  
17 law.