

1 HB515  
2 191150-1  
3 By Representative Ford  
4 RFD: Judiciary  
5 First Read: 15-MAR-18

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8 SYNOPSIS: Under existing law, the total liability of  
9 an employer for the treatment of and medicine for  
10 injuries arising out and in the course of  
11 employment is limited.

12 This bill would provide that when an  
13 employer has contracted with a physician, pharmacy,  
14 or pharmacy benefit management company for the  
15 purpose of providing workers' compensation  
16 prescription benefits at a contracted price that is  
17 less than the maximum fee schedule or prevailing  
18 rate, the employer's liability is limited to the  
19 contracted rate when other providers of  
20 prescription benefits are used.

21 This bill would also provide that a provider  
22 of workers' compensation prescription benefits that  
23 is not a party to the contract with the employer  
24 may dispense medication to an employee of the  
25 employer only if the provider dispenses the  
26 prescription benefits at the contracted rate and

1           deems payment of the contracted rate to be  
2           reimbursement in full.

3  
4                           A BILL  
5                           TO BE ENTITLED  
6                           AN ACT

7  
8           Relating to workers' compensation; to amend Sections  
9   25-5-77, 25-5-293, and 25-5-314, Code of Alabama 1975, to  
10   provide further for the total liability of an employer with  
11   regard to the payment of prescription benefits; and to provide  
12   further for the payment of certain workers' compensation  
13   prescription benefits.

14   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15           Section 1. Sections 25-5-77, 25-5-293, and 25-5-314,  
16   Code of Alabama 1975, are amended to read as follows:

17           "§25-5-77.

18           "(a) (1) In addition to the compensation provided in  
19   this article and Article 4 of this chapter, the employer,  
20   where applicable, shall pay the actual cost of the repair,  
21   refitting, or replacement of artificial members damaged as the  
22   result of an accident arising out of and in the course of  
23   employment, and the employer, except as otherwise provided in  
24   this amendatory act, shall pay an amount not to exceed the  
25   prevailing rate or maximum schedule of fees as established  
26   herein of reasonably necessary medical and surgical treatment  
27   and attention, physical rehabilitation, medicine, medical and

1 surgical supplies, crutches, artificial members, and other  
2 apparatus as the result of an accident arising out of and in  
3 the course of the employment, as may be obtained by the  
4 injured employee or, in case of death, obtained during the  
5 period occurring between the time of the injury and the  
6 employee's death therefrom. If the employee is dissatisfied  
7 with the initial treating physician selected by the employer  
8 and if further treatment is required, the employee may so  
9 advise the employer, and the employee shall be entitled to  
10 select a second physician from a panel or list of four  
11 physicians selected by the employer. If surgery is required  
12 and if the employee is dissatisfied with the designated  
13 surgeon, he or she may so advise the employer, and the  
14 employee shall be entitled to select a second surgeon from a  
15 panel or list of four surgeons selected by the employer. If  
16 four physicians or surgeons are not available to be listed,  
17 the employer shall include on the list as many as are  
18 available. The four physicians or surgeons selected by the  
19 employer hereunder shall not be from or members of the same  
20 firm, partnership, or professional corporation.

21 "(2) The total liability of the employer shall,  
22 unless otherwise provided in this chapter, not exceed the  
23 lesser of the following:

24 "a. The prevailing rate. ~~or the~~

25 "b. The maximum schedule of fees ~~as established~~  
26 herein.

1           "c. For medications, the contracted rates, fees, or  
2 levels of reimbursement agreed upon between an employer,  
3 workers' compensation insurance carrier, self-insured  
4 employer, or group fund and any physician, pharmacy, or  
5 pharmacy benefit management company.

6           "(3) When an employer has contracted with a  
7 physician, pharmacy, or pharmacy benefit management company  
8 for the purposes of filling or dispensing any medication to an  
9 employee at a rate lower than the maximum fee schedule or the  
10 prevailing rate, the contracted rates, fees, or level of  
11 reimbursement agreed upon between the parties shall be deemed  
12 to be reimbursement in full. A provider of workers'  
13 compensation prescription benefits that is not a party to the  
14 contract with the employer may dispense medication to an  
15 employee of the employer only if the provider dispenses the  
16 prescription benefits at the contracted rate and deems payment  
17 of the contracted rate to be reimbursement in full.

18           ~~"Notwithstanding the foregoing~~ (4) Subdivisions (1),  
19 (2), and (3) notwithstanding, in ascertaining the prevailing  
20 rate of reimbursement or payment with regard to participating  
21 hospitals and ambulatory surgical centers or outpatient  
22 rehabilitation centers licensed by the State of Alabama, as  
23 well as diagnostic facilities accredited by the Commission on  
24 Accreditation of Rehabilitation Facilities, the prevailing  
25 rate shall be negotiated with each individual hospital,  
26 ambulatory surgical center, licensed outpatient rehabilitation  
27 facility, or diagnostic facility based on that institution's

1 treatment of comparable type cases for the 12-month period  
2 immediately preceding August 1, 1992. These rates shall be  
3 updated every 12 months thereafter. Initial rates shall be  
4 established within six months of August 1, 1992.

5 "(5) For ~~those~~ non-participating hospitals, the  
6 prevailing rate shall be determined by a committee. In the  
7 first year following August 1, 1992, the committee shall be  
8 composed of five members. The secretary shall appoint one  
9 member from the Department of Labor and two members from the  
10 community in which the non-participating hospital is located.  
11 The non-participating hospital shall appoint two members. This  
12 committee shall by a majority vote establish the maximum rates  
13 of reimbursement or payment for the non-participating  
14 hospital, and the hospital shall be bound for one year by the  
15 determined rates of reimbursement or payment for workers'  
16 compensation cases. If, following the first year after the  
17 rates were established by this committee, the hospital is  
18 again non-participating, then another committee shall be  
19 appointed. This second committee shall have three members  
20 selected by the non-participating hospital and two members  
21 selected by the secretary. The committee composition shall  
22 alternate as above described each year the hospital is  
23 non-participating. The total liability of the employer shall  
24 not exceed the rates established by the committee. This  
25 committee, in determining the rates of reimbursement or  
26 payments to the hospital, may consider such factors as the

1 size, staffing, and medical equipment of the hospital, and any  
2 other factors which the committee may consider relevant.

3 "(6) If an insurer of the employee or a benefit  
4 association has paid or is liable for the employee's medical,  
5 surgical, and hospital service or for a part thereof, or if  
6 the employee is entitled to the same or a part thereof, from  
7 any source whatever by virtue of any agreement or  
8 understanding or law, state or federal, without any loss of  
9 benefit to the employee, the employer shall not be required to  
10 pay any part of the expense. If the benefits are insufficient  
11 to pay all the employee's expense, the employer shall be  
12 liable for the deficiency only. All cases of dispute as to the  
13 necessity and value of the services shall be determined by the  
14 tribunal having jurisdiction of the claim of the injured  
15 employee for compensation.

16 "(b) If requested to do so by the employer, the  
17 injured employee shall submit to examination by the employer's  
18 physician at all reasonable times, but the employee shall have  
19 the right to have a physician of his or her own selection  
20 present at the examination, in which case the employee shall  
21 be liable to the physician of his or her own selection for his  
22 or her services. The employer shall pay for the services of  
23 the physician making the examination at the instance of the  
24 employer. If a dispute arises as to the injury, or as to the  
25 extent of the disability therefrom, the court may, at the  
26 instance of either party or of its own motion, appoint a  
27 neutral physician of good standing and ability to make an

1 examination of the injured employee and to report his or her  
2 findings to the court, the expense of which examination shall  
3 be borne equally by the parties. If the injured employee  
4 refuses to comply with reasonable request for examination, or  
5 refuses to accept the medical service or physical  
6 rehabilitation, which the employer elects to furnish under  
7 this chapter, the employee's right to compensation shall be  
8 suspended and no compensation shall be payable for the period  
9 of the refusal. A physician whose services are furnished or  
10 paid for by the employer, or a physician of the injured  
11 employee who treats or makes or is present at any examination  
12 of an injured employee may be required to testify as to any  
13 knowledge obtained by him or her in the course of the  
14 treatment or examination as the treatment or examination  
15 related to the injury or the disability arising therefrom. The  
16 physician shall, upon written request of the injured employee  
17 or his or her employer and without consent of or notice to the  
18 employee or employer not making the request, furnish the  
19 injured employee or his or her employer a written statement of  
20 his or her professional opinion as to the extent of the injury  
21 and disability. In all death claims where the cause of death  
22 is obscure or is disputed, any interested party may require an  
23 autopsy, the cost of which is to be borne by the party  
24 demanding the autopsy. The term "physicians" shall include  
25 medical doctor, surgeon, and chiropractor. A hospital, medical  
26 clinic, rehabilitation service, or other person or entity  
27 providing treatment to an employee or providing facilities at



1 which the employee receives treatment shall, upon the written  
2 request of the employee or of the employer, furnish, at a  
3 reasonable cost, the employee or the employer a copy of the  
4 records, including X-rays and laboratory reports, relating to  
5 the treatment of the injured employee. The copy may be  
6 furnished without the consent of or notice to the employee or  
7 employer not making the request. A physician, hospital,  
8 medical clinic, rehabilitation service, or other person or  
9 entity providing written statement of professional opinion or  
10 copies of records pursuant to this subsection shall not be  
11 liable to any person for a claim arising out of the release of  
12 medical information concerning the employee.

13 "(c) If the employer so elects, the employee shall  
14 submit to and undergo vocational rehabilitation at the  
15 employer's expense through a vocational rehabilitation  
16 specialist, who shall be qualified to render competent  
17 vocational rehabilitation service. If an employee who is  
18 unable in the opinion of the treating physician to return to  
19 his or her former employment shall request vocational  
20 rehabilitation and if both a vocational rehabilitation  
21 specialist and a treating physician, the cost of whose service  
22 is the obligation of the employer under this section, shall  
23 express their opinions in writing that in the judgment of each  
24 of them vocational rehabilitation is reasonably calculated to  
25 restore the employee to gainful employment and is in the best  
26 interest of the employee, the cost of the rehabilitation shall  
27 be borne by the employer. The cost, where rehabilitation

1 requires residence at or near a facility or institution away  
2 from the employee's customary residence, shall include  
3 reasonable charges for the employee's necessary board,  
4 lodging, and travel.

5 "(d) If an employee refuses, without the consent of  
6 the court, to accept vocational rehabilitation at the  
7 employer's request, the refusal shall result in loss of  
8 compensation for the period of refusal.

9 "(e) All disputes with regard to vocational  
10 rehabilitation may be submitted to the court for resolution.

11 "(f) The employer shall pay mileage costs to and  
12 from medical and rehabilitation providers at the same rate as  
13 provided by law for official state travel.

14 "(g) In a compensable workers' compensation claim,  
15 the injured employee shall not be liable for payment of any  
16 authorized and compensable medical expenses associated with  
17 the workers' compensation claim.

18 "(h) All undisputed medical reimbursements or  
19 payments shall be made within 25 working days of receipt of  
20 claims in the form specified in Section 25-5-3. There shall be  
21 added to any undisputed medical invoice which is not paid  
22 within 25 working days an amount equal to 10 percent of the  
23 unpaid balance.

24 "If the employer or insurer responsible for payment  
25 of the claim fails to add the additional 10 percent to the  
26 claim as required by this section, the person, firm,  
27 corporation, or partnership providing the medical service for

1 which payment has been delayed beyond the period specified in  
2 this section may file a written complaint stating that fact  
3 with the secretary. Upon investigation, if the secretary  
4 determines that the facts stated in the complaint are true,  
5 then in that event the secretary shall order the employer or  
6 insurer to pay to the provider the amount of the claim and any  
7 applicable penalty, and in addition may assess a civil  
8 monetary penalty in amount not to exceed \$500 against the  
9 employer or insurer, payment of which shall be made to the  
10 secretary within 30 days of the notice of assessment.

11 "(i) Any party, including a health care provider, is  
12 entitled to a review by an ombudsman of medical services that  
13 are provided or for which authorization of payment is sought  
14 if any party or the health care provider has any of the  
15 following:

16 "(1) Been denied payment or had the charge reduced  
17 for medical services rendered.

18 "(2) Been denied authorization for the payment of  
19 services requested or performed when authorization is  
20 required.

21 "(3) Been ordered by the secretary to refund  
22 payments received for the provision of medical services.

23 "(4) A party to a medical dispute that remains  
24 unresolved after a review of medical services as provided by  
25 this section may petition the court for relief.

26 "(5) In any review under this subsection of medical  
27 services provided by a physician, any party to a dispute may

1 request that the ombudsman consult with an independent medical  
2 expert for the purpose of obtaining advice and consultation on  
3 the resolution of any issue involving medical practice. If  
4 such a request is made, the ombudsman shall select an  
5 independent medical expert from among a list of at least three  
6 names provided by the Workers' Compensation Medical Services  
7 Board in a medical specialty appropriate to the issues raised  
8 in the dispute and shall secure a written opinion from the  
9 independent medical expert. In rendering a decision or  
10 recommendation, the ombudsman shall give full consideration to  
11 the opinion of the independent medical expert but shall not be  
12 bound by that opinion. The independent medical expert shall be  
13 compensated at a rate set by the Workers' Compensation Medical  
14 Services Board and approved by the secretary.

15 "§25-5-293.

16 "(a) The Secretary of the Department of Labor may  
17 prescribe rules and regulations for the purpose of conducting  
18 continuing education seminars for all personnel associated  
19 with workers' compensation claims and collect registration  
20 fees in order to cover the related expenditures. The secretary  
21 may adopt rules and regulations setting continuing education  
22 standards for workers' compensation claims personnel employed  
23 by insurance companies and self-insured employers and groups.

24 "(b) The secretary shall file annually with the  
25 Governor and the presiding officer of each house of the  
26 Legislature a complete and detailed written report accounting  
27 for all funds received and disbursed during the preceding

1 fiscal year. The annual report shall be in the form and  
2 reported in the time provided by law.

3 "(c) The secretary shall establish reasonable  
4 charges to recover expenses for services not required by law  
5 or rule provided to persons requesting the services from the  
6 Department of Labor.

7 "(d) The secretary shall appoint appropriate  
8 advisory committees on workers' compensation matters,  
9 including: An advisory committee consisting of three  
10 administrators who are members of the Alabama Hospital  
11 Association, who shall be selected by the secretary from  
12 nominations submitted by the Alabama Hospital Association; an  
13 advisory committee consisting of three chiropractors who are  
14 members in good standing with the Alabama State Chiropractic  
15 Association, who shall be selected by the secretary from  
16 nominations submitted by the Alabama State Chiropractic  
17 Association; an advisory committee consisting of three  
18 pharmacists who are members in good standing with the Alabama  
19 Pharmaceutical Association who shall be selected by the  
20 secretary from nominations submitted by the Alabama  
21 Pharmaceutical Association; and an advisory committee  
22 consisting of three optometrists who are members in good  
23 standing with the Alabama Optometric Association who shall be  
24 selected by the secretary from nominations submitted by the  
25 Alabama Optometric Association. These committees shall guide  
26 the secretary and make recommendations to ascertain the  
27 prevailing rate of reimbursement or payment of medical costs

1 in the State of Alabama. These committees shall make  
2 recommendations with regard to the implementation of all other  
3 rules and regulations, including, but not limited to,  
4 utilization review by like peers. These committees shall also  
5 advise and guide the secretary in determining all other rules  
6 and regulations required to accomplish the intent of the  
7 Legislature in assuring the quality of medical care and  
8 achieving medical cost control.

9 "The secretary shall also appoint a vocational  
10 rehabilitation advisory committee consisting of at least five  
11 professional licensed rehabilitation specialists. These  
12 rehabilitation specialists shall be selected by the secretary  
13 from nominations from the rehabilitation associations in the  
14 State of Alabama, including, but not limited to, the Alabama  
15 Physical Therapy Association. The committee shall guide the  
16 secretary and make recommendations to ascertain the prevailing  
17 rate of reimbursement or payment of rehabilitation costs in  
18 the State of Alabama. The committee shall also make  
19 recommendations with regard to the implementation of all other  
20 rules and regulations, including but not limited to,  
21 utilization review, and with regard to rehabilitation policies  
22 as provided by this article. The committee shall also advise  
23 and guide the secretary in determining all other rules and  
24 regulations required to accomplish the intent of the  
25 Legislature in assuring the quality of rehabilitation care and  
26 achieving rehabilitation cost control.

1           "(e) (1) The secretary shall appoint an advisory  
2 committee consisting of attorneys who are members in good  
3 standing of the Alabama State Bar. This committee shall guide  
4 and assist the secretary in creating and promulgating rules  
5 and regulations for the efficient administration of the  
6 Ombudsman Program.

7           (2) Members of the advisory committee shall receive  
8 State of Alabama mileage expense which shall be paid by the  
9 Department of Labor.

10           "(f) It is the intent of the Legislature that final  
11 reimbursements related to workers' compensation claims be  
12 commensurate and in line with the prevailing rate of  
13 reimbursement or payment in the State of Alabama, or as  
14 otherwise provided in this article. The secretary shall  
15 conduct field audits as necessary to assist the private sector  
16 to gain compliance with the legislative intent. The department  
17 shall develop administrative rules to facilitate  
18 implementation and continuity of the legislative intent of  
19 this article. The secretary, except as otherwise provided in  
20 this article, shall not establish the prevailing rate of  
21 payment or reimbursement, but may collect data which are  
22 construed to be statistically significant as defined by an  
23 independent, disinterested consultant. By definition, the  
24 prevailing rate of payment or reimbursement is self-defining  
25 and self-setting and shall be updated annually. The secretary  
26 may create a statistically valid data base from which  
27 prevailing rates of reimbursement or payment shall be

1       ascertained. Except as otherwise provided herein, the  
2       prevailing rate of reimbursement or payment for medical  
3       services provided under this article shall be effective 30  
4       days after the prevailing rate of reimbursement or payment is  
5       discovered, but in no event earlier than six months from May  
6       19, 1992.

7               "(g) (1) Insurance carriers and self-insurers,  
8       individual and group, are required to make appropriate payment  
9       for services provided under this article. Unless otherwise  
10       provided in this article, an insurance carrier or  
11       self-insurer, individual or group, shall not pay more than the  
12       lesser of the following:

13               "a. The applicable prevailing rate of reimbursement  
14       for medical services.

15               "b. With regard to medication, the rates, fees, or  
16       levels of reimbursement agreed upon between the employer,  
17       workers' compensation carrier, self-insured employer, or group  
18       fund and the physician, pharmacy, or pharmacy benefit  
19       management company.

20               "(2) When an employer has contracted with a  
21       physician, pharmacy, or pharmacy benefit management company  
22       for the purposes of filling or dispensing any medication to an  
23       employee at a rate lower than the maximum fee schedule or the  
24       prevailing rate, the contracted rates, fees, or level of  
25       reimbursement agreed upon between the parties shall be deemed  
26       to be reimbursement in full. A provider of workers'  
27       compensation prescription benefits that is not a party to the



1 contract with the employer may dispense medication to an  
2 employee of the employer only if the provider dispenses the  
3 prescription benefits at the contracted rate and deems payment  
4 of the contracted rate to be reimbursement in full.

5 "(3) Insurance carriers and self-insurers,  
6 individual and group, may have utilization review and medical  
7 bill screenings. Utilization review and bill screening shall  
8 be performed by qualified individuals or entities to insure  
9 the integrity of the services and the quality of cost  
10 containment.

11 "(4) It is the express legislative intent of this  
12 article to ensure that the highest quality health care is  
13 available to employees who become injured or ill as the result  
14 of employment, at an appropriate rate of provider  
15 reimbursement. All insurers, claims adjusters,  
16 self-administered employers, and any entity involved in the  
17 administration or payment of workers' compensation claims may,  
18 but are not required to, implement utilization review and bill  
19 screening for health services provided to employees covered  
20 under this article. In this regard, employers' liability for  
21 reimbursement shall be limited to the prevailing rate or  
22 maximum fee schedule established by the Workers' Compensation  
23 Services Board for similar treatment. There is a conclusive  
24 presumption that the rates, fees, or levels of reimbursement  
25 for medication agreed upon between the employer, workers'  
26 compensation insurance carrier, self-insured employer, or

1 group fund and the physician, pharmacy, or pharmacy benefit  
2 management company are reasonably necessary.

3 "(5) Services provided that are deemed not medically  
4 necessary are not reimbursable and the employer is held  
5 harmless. In no event is the employee responsible or held  
6 liable for any charges associated with an authorized workers'  
7 compensation claim.

8 "(6) To ensure compliance of providers, insurance  
9 carriers, and self-insurers, the secretary may provide by rule  
10 for the review and audit of insurance carriers and  
11 self-insurers, individual and group, of payments for medical  
12 services. The secretary may maintain a statewide data base  
13 from insurance carriers and self-insurers, individual and  
14 group, on medical charges, actual payments, and adjudication  
15 methods for use in administering this article.

16 "(h) Claims payors, and insurers operating in  
17 Alabama shall, at the secretary's request, provide the  
18 secretary such data as he or she deems necessary to evaluate  
19 costs and quality. The data shall be provided in the form and  
20 content to the secretary's specifications and in a manner  
21 deemed timely by the secretary. The secretary may gather from  
22 health care claims intermediaries that operate in Alabama any  
23 claims data related to diagnoses and procedures encountered in  
24 the treatment of workers'-compensation-type injury and illness  
25 in Alabama. Results from all data gathered shall be made  
26 available to employers or their representatives for use in

1 decisions regarding the direction of care or to determine  
2 appropriateness of reimbursement.

3 "(i) Beginning immediately after May 19, 1992, and  
4 to be completed within six months thereafter, the secretary  
5 may engage an independent firm to identify the initial costs  
6 for the program. These initial expenses shall include, but not  
7 be limited to, the establishment of a data base to determine  
8 prevailing rates, and the conducting of cost analysis for  
9 appropriate reimbursement rates to hospitals and other  
10 facilities.

11 "(j) A person who performs services for the  
12 secretary pertaining to the policies of any advisory committee  
13 or board is immune from civil liability against any claim  
14 arising out of, or related to, any decision made in good  
15 faith, and without malice, and predicated upon information  
16 which was then available to the person. Immunity from  
17 liability under this section does not apply to a person  
18 providing medical treatment to an injured employee.

19 "(k) Notwithstanding any other provision of this  
20 section to the contrary, it is the intent of this section that  
21 any and all utilization review, bill screening, medical  
22 necessity determinations, or audits which relate to the  
23 services of physicians as defined in Section 25-5-310 shall  
24 only be conducted under and in accordance with policies,  
25 guidelines, or regulations which have been jointly approved by  
26 the Workers' Compensation Medical Services Board and the  
27 secretary under the provisions of Section 25-5-312, as and

1 when such policies, guidelines, criteria, and regulations are  
2 adopted in a final and effective form pursuant to the Alabama  
3 Administrative Procedure Act. Not later than six months from  
4 May 19, 1992, the secretary, with the approval of the board,  
5 shall publish a notice of the intended action in Alabama  
6 Administrative Monthly to adopt initial policies, guidelines,  
7 criteria, or regulations for utilization review, medical  
8 necessity determinations, and bill screenings; however, each  
9 insurer, self-insured employer, claims administrator, or other  
10 payor may continue utilization review, medical necessity  
11 determinations, and bill screenings unaffected by this article  
12 during the first six months from May 19, 1992, or until such  
13 policies, guidelines, criteria, or regulations may become  
14 effective in a final adopted form within that initial  
15 six-month period. If such above referenced pending policies,  
16 guidelines, criteria, or regulations have not become effective  
17 in a final form pursuant to the Administrative Procedure Act  
18 after six months from May 19, 1992, then until such time as  
19 they are finally adopted, each insurer, self-insured employer,  
20 or claims administrator shall conduct utilization review,  
21 medical necessity determinations, and bill screenings in a  
22 manner that is consistent with similar practices of a majority  
23 of commercial insurance companies authorized to issue policies  
24 of health insurance in this state. Any amendments, including  
25 additions or deletions, to the initial policies, guidelines,  
26 criteria, or regulations shall be adopted in accordance with  
27 the requirements of this section and Section 25-5-312.

1           "§25-5-314.

2           "(a) Notwithstanding any other provisions of this  
3 article to the contrary, any employer, workers' compensation  
4 insurance carrier, self-insured employer, or group fund, may  
5 contract with physicians, hospitals, and any other health care  
6 provider for the provision of medical services to injured  
7 workers at any rates, fees, or levels of reimbursement which  
8 shall be mutually agreed upon between the physician,  
9 hospitals, and any other health care provider and the  
10 employer, workers' compensation insurance carrier,  
11 self-insured employer, or group fund.

12           "(b) (1) Any employer, workers' compensation  
13 insurance carrier, self-insured employer, or group fund may  
14 contract with a physician, pharmacy, or pharmacy benefit  
15 management company for the provision of medicine, prescription  
16 medication, or pharmaceuticals to injured workers at any rate,  
17 fee, or level of reimbursement mutually agreed upon between  
18 the physician, pharmacy, or pharmacy benefit management  
19 company and the employer, workers' compensation insurance  
20 carrier, self-insured employer, or group fund.

21           "(2) There is a conclusive presumption that the  
22 rates, fees, or levels of reimbursement agreed upon between  
23 the employer, workers' compensation insurance carrier,  
24 self-insured employer, or group fund and the physician,  
25 pharmacy, or pharmacy benefit management company are the  
26 reasonably necessary rates, fees, or levels of reimbursement

1 notwithstanding the prevailing rate or the fee schedule  
2 contemplated by Section 25-5-313.

3 "(3) When an employer has contracted with a  
4 physician, pharmacy, or pharmacy benefit management company  
5 for the purposes of filling or dispensing any medication to an  
6 employee at a rate lower than the maximum fee schedule or the  
7 prevailing rate, the contracted rates, fees, or level of  
8 reimbursement agreed upon between the parties shall be deemed  
9 to be reimbursement in full. A provider of workers'  
10 compensation prescription benefits that is not a party to the  
11 contract with the employer may dispense medication to an  
12 employee of the employer only if the provider dispenses the  
13 prescription benefits at the contracted rate and deems payment  
14 of the contracted rate to be reimbursement in full."

15 Section 2. This act shall become effective on the  
16 first day of the third month following its passage and  
17 approval by the Governor, or its otherwise becoming law.