

By Senator Gutman

34-837A-98

1                                   A bill to be entitled  
2           An act relating to workers' compensation;  
3           amending s. 440.13, F.S.; deleting limitations  
4           on chiropractic treatment; requiring a  
5           physician to provide copies of medical reports  
6           to an injured employee; deleting certification  
7           requirements; deleting limitations on referrals  
8           between health care providers; expanding the  
9           membership of the panel that determines maximum  
10          reimbursement allowances; deleting a  
11          requirement for a copayment for medical  
12          services; amending s. 440.15, F.S.; increasing  
13          the period for temporary total disability,  
14          permanent impairment, and temporary partial  
15          disability benefits; revising criteria to  
16          establish the schedule of impairment benefits;  
17          increasing the rate of payment of impairment  
18          benefits; removing the prohibition against  
19          compensation for mental, psychological, or  
20          emotional injury; revising criteria for an  
21          obligation to rehire; amending s. 440.191,  
22          F.S.; requiring employers and carriers to pay  
23          attorneys' fees in specified circumstances;  
24          amending s. 440.192, F.S.; providing for  
25          payment of attorneys' fees; amending s. 440.34,  
26          F.S.; revising the formula for setting  
27          attorneys' fees; revising the application of a  
28          law relating to payment of compensation;  
29          repealing s. 440.25(4)(j), F.S., which provides  
30          for expedited dispute resolution; providing an  
31          effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2  
3 Section 1. Subsections (2), (3), (12), and (14) of  
4 section 440.13, Florida Statutes, are amended to read:

5 440.13 Medical services and supplies; penalty for  
6 violations; limitations.--

7 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.--

8 (a) Subject to the limitations specified elsewhere in  
9 this chapter, the employer shall furnish to the employee such  
10 medically necessary remedial treatment, care, and attendance  
11 for such period as the nature of the injury or the process of  
12 recovery may require, including medicines, medical supplies,  
13 durable medical equipment, orthoses, prostheses, and other  
14 medically necessary apparatus. Remedial treatment, care, and  
15 attendance, including work-hardening programs or  
16 pain-management programs accredited by the Commission on  
17 Accreditation of Rehabilitation Facilities or Joint Commission  
18 on the Accreditation of Health Organizations or  
19 pain-management programs affiliated with medical schools,  
20 shall be considered as covered treatment only when such care  
21 is given based on a referral by a physician as defined in this  
22 chapter. Each facility shall maintain outcome data, including  
23 work status at discharges, total program charges, total number  
24 of visits, and length of stay. ~~The department shall utilize~~  
25 ~~such data and report to the President of the Senate and the~~  
26 ~~Speaker of the House of Representatives regarding the efficacy~~  
27 ~~and cost-effectiveness of such program, no later than October~~  
28 ~~1, 1994. Medically necessary treatment, care, and attendance~~  
29 ~~does not include chiropractic services in excess of 18~~  
30 ~~treatments or rendered 8 weeks beyond the date of the initial~~  
31 ~~chiropractic treatment, whichever comes first, unless the~~

1 ~~carrier authorizes additional treatment or the employee is~~  
2 ~~catastrophically injured.~~

3 (b) The employer shall provide appropriate  
4 professional or nonprofessional attendant care performed only  
5 at the direction and control of a physician when such care is  
6 medically necessary. The value of nonprofessional attendant  
7 care provided by a family member must be determined as  
8 follows:

9 1. If the family member is not employed, the per-hour  
10 value equals the federal minimum hourly wage.

11 2. If the family member is employed and elects to  
12 leave that employment to provide attendant or custodial care,  
13 the per-hour value of that care equals the per-hour value of  
14 the family member's former employment, not to exceed the  
15 per-hour value of such care available in the community at  
16 large. A family member or a combination of family members  
17 providing nonprofessional attendant care under this paragraph  
18 may not be compensated for more than a total of 12 hours per  
19 day.

20 (c) If the employer fails to provide treatment or care  
21 required by this section after request by the injured  
22 employee, the employee may obtain such treatment at the  
23 expense of the employer, if the treatment is compensable and  
24 medically necessary. There must be a specific request for the  
25 treatment, and the employer or carrier must be given a  
26 reasonable time period within which to provide the treatment  
27 or care. However, the employee is not entitled to recover any  
28 amount personally expended for the treatment or service unless  
29 he or she has requested the employer to furnish that treatment  
30 or service and the employer has failed, refused, or neglected  
31 to do so within a reasonable time or unless the nature of the

1 injury requires such treatment, nursing, and services and the  
2 employer or his or her superintendent or foreman, having  
3 knowledge of the injury, has neglected to provide the  
4 treatment or service.

5 (d) The carrier has the right to transfer the care of  
6 an injured employee from the attending health care provider if  
7 an independent medical examination determines that the  
8 employee is not making appropriate progress in recuperation.

9 (e) Except in emergency situations and for treatment  
10 rendered by a managed care arrangement, after any initial  
11 examination and diagnosis by a physician providing remedial  
12 treatment, care, and attendance, and before a proposed course  
13 of medical treatment begins, each insurer shall review, in  
14 accordance with the requirements of this chapter, the proposed  
15 course of treatment, to determine whether such treatment would  
16 be recognized as reasonably prudent. The review must be in  
17 accordance with all applicable workers' compensation practice  
18 parameters. The insurer must accept any such proposed course  
19 of treatment unless the insurer notifies the physician of its  
20 specific objections to the proposed course of treatment by the  
21 close of the tenth business day after notification by the  
22 physician, or a supervised designee of the physician, of the  
23 proposed course of treatment.

24 (f) A physician shall provide copies of all medical  
25 reports, except psychiatric or psychological reports, to an  
26 injured employee at the same time as copies are provided to  
27 the attorneys for the carrier and the employee.

28 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

29 (a) As a condition to eligibility for payment under  
30 this chapter, a health care provider who renders services must  
31 be a certified health care provider and must receive

1 authorization from the carrier before providing treatment.  
2 This paragraph does not apply to emergency care. ~~The division~~  
3 ~~shall adopt rules to implement the certification of health~~  
4 ~~care providers. As a one-time prerequisite to obtaining~~  
5 ~~certification, the division shall require each physician to~~  
6 ~~demonstrate proof of completion of a minimum 5-hour course~~  
7 ~~that covers the subject areas of cost containment, utilization~~  
8 ~~control, ergonomics, and the practice parameters adopted by~~  
9 ~~the division governing the physician's field of practice. The~~  
10 ~~division shall coordinate with the Agency for Health Care~~  
11 ~~Administration, the Florida Medical Association, the Florida~~  
12 ~~Osteopathic Medical Association, the Florida Chiropractic~~  
13 ~~Association, the Florida Podiatric Medical Association, the~~  
14 ~~Florida Optometric Association, the Florida Dental~~  
15 ~~Association, and other health professional organizations and~~  
16 ~~their respective boards as deemed necessary by the Agency for~~  
17 ~~Health Care Administration in complying with this subsection.~~  
18 ~~No later than October 1, 1994, the division shall adopt rules~~  
19 ~~regarding the criteria and procedures for approval of courses~~  
20 ~~and the filing of proof of completion by the physicians.~~

21 (b) A health care provider who renders emergency care  
22 must notify the carrier by the close of the third business day  
23 after it has rendered such care. If the emergency care results  
24 in admission of the employee to a health care facility, the  
25 health care provider must notify the carrier by telephone  
26 within 24 hours after initial treatment. Emergency care is not  
27 compensable under this chapter unless the injury requiring  
28 emergency care arose as a result of a work-related accident.  
29 Pursuant to chapter 395, all licensed physicians and health  
30 care providers in this state shall be required to make their  
31 services available for emergency treatment of any employee

1 eligible for workers' compensation benefits. To refuse to make  
2 such treatment available is cause for revocation of a license.

3 (c) A health care provider may not refer the employee  
4 to another health care provider, diagnostic facility, therapy  
5 center, or other facility without prior authorization from the  
6 carrier, except when emergency care is rendered. Any referral  
7 must be to a health care provider that has been certified by  
8 the division, unless the referral is for emergency treatment.

9 (d) A carrier must respond, by telephone or in  
10 writing, to a request for authorization by the close of the  
11 third business day after receipt of the request. A carrier who  
12 fails to respond to a written request for authorization for  
13 referral for medical treatment by the close of the third  
14 business day after receipt of the request consents to the  
15 medical necessity for such treatment. All such requests must  
16 be made to the carrier. Notice to the carrier does not include  
17 notice to the employer.

18 (e) Carriers shall adopt procedures for receiving,  
19 reviewing, documenting, and responding to requests for  
20 authorization. Such procedures shall be for a health care  
21 provider certified under this section.

22 (f) By accepting payment under this chapter for  
23 treatment rendered to an injured employee, a health care  
24 provider consents to the jurisdiction of the division as set  
25 forth in subsection (11) and to the submission of all records  
26 and other information concerning such treatment to the  
27 division in connection with a reimbursement dispute, audit, or  
28 review as provided by this section. The health care provider  
29 must further agree to comply with any decision of the division  
30 rendered under this section.

31

1 (g) The employee is not liable for payment for medical  
2 treatment or services provided pursuant to this section except  
3 as otherwise provided in this section.

4 ~~(h) The provisions of s. 455.236 are applicable to~~  
5 ~~referrals among health care providers, as defined in~~  
6 ~~subsection (1), treating injured workers.~~

7 (h)(i) Notwithstanding paragraph (d), a claim for  
8 specialist consultations, surgical operations,  
9 physiotherapeutic or occupational therapy procedures, X-ray  
10 examinations, or special diagnostic laboratory tests that cost  
11 more than \$1,000 and other specialty services that the  
12 division identifies by rule is not valid and reimbursable  
13 unless the services have been expressly authorized by the  
14 carrier, or unless the carrier has failed to respond within 10  
15 days to a written request for authorization, or unless  
16 emergency care is required. The insurer shall not refuse to  
17 authorize such consultation or procedure unless the health  
18 care provider or facility is not authorized or certified or  
19 unless an expert medical advisor has determined that the  
20 consultation or procedure is not medically necessary or  
21 otherwise compensable under this chapter. Authorization of a  
22 treatment plan does not constitute express authorization for  
23 purposes of this section, except to the extent the carrier  
24 provides otherwise in its authorization procedures. This  
25 paragraph does not limit the carrier's obligation to identify  
26 and disallow overutilization or billing errors.

27 (i)(j) Notwithstanding anything in this chapter to the  
28 contrary, a sick or injured employee shall be entitled, at all  
29 times, to free, full, and absolute choice in the selection of  
30 the pharmacy or pharmacist dispensing and filling  
31 prescriptions for medicines required under this chapter. It is

1 expressly forbidden for the division, an employer, or a  
2 carrier, or any agent or representative of the division, an  
3 employer, or a carrier to select the pharmacy or pharmacist  
4 which the sick or injured employee must use; condition  
5 coverage or payment on the basis of the pharmacy or pharmacist  
6 utilized; or to otherwise interfere in the selection by the  
7 sick or injured employee of a pharmacy or pharmacist.

8 (12) CREATION OF ~~THREE-MEMBER~~ PANEL; GUIDES OF MAXIMUM  
9 REIMBURSEMENT ALLOWANCES.--

10 (a) A five-member ~~three-member~~ panel is created,  
11 consisting of the Insurance Commissioner, or the Insurance  
12 Commissioner's designee, and four ~~two~~ members to be appointed  
13 by the Governor, subject to confirmation by the Senate, two  
14 members ~~one member~~ who, on account of present or previous  
15 vocation, employment, or affiliation, are ~~shall be~~ classified  
16 as representatives ~~a representative~~ of employers, and two  
17 members ~~the other member~~ who, on account of previous vocation,  
18 employment, or affiliation, are ~~shall be~~ classified as  
19 representatives ~~a representative~~ of employees. The panel shall  
20 determine statewide schedules of maximum reimbursement  
21 allowances for medically necessary treatment, care, and  
22 attendance provided by physicians, hospitals, ambulatory  
23 surgical centers, work-hardening programs, pain programs, and  
24 durable medical equipment. The maximum reimbursement  
25 allowances for inpatient hospital care shall be based on a  
26 schedule of per diem rates, to be approved by the five-member  
27 ~~three-member~~ panel by November 1, 1998, ~~no later than March 1,~~  
28 ~~1994~~, to be used in conjunction with a precertification manual  
29 as determined by the division. All compensable charges for  
30 hospital outpatient care shall be reimbursed at 75 percent of  
31 usual and customary charges. Until the five-member



1 ~~three-member~~ panel approves a schedule of per diem rates for  
2 inpatient hospital care and it becomes effective, all  
3 compensable charges for hospital inpatient care must be  
4 reimbursed at 75 percent of their usual and customary charges.  
5 Annually, the five-member ~~three-member~~ panel shall adopt  
6 schedules of maximum reimbursement allowances for physicians,  
7 hospital inpatient care, hospital outpatient care, ambulatory  
8 surgical centers, work-hardening programs, and pain programs.  
9 However, the maximum percentage of increase in the individual  
10 reimbursement allowance may not exceed the percentage of  
11 increase in the Consumer Price Index for the previous year. An  
12 individual physician, hospital, ambulatory surgical center,  
13 pain program, or work-hardening program shall be reimbursed  
14 either the usual and customary charge for treatment, care, and  
15 attendance, the agreed-upon contract price, or the maximum  
16 reimbursement allowance in the appropriate schedule, whichever  
17 is less.

18 (b) As to reimbursement for a prescription medication,  
19 the reimbursement amount for a prescription shall be the  
20 average wholesale price times 1.2 plus \$4.18 for the  
21 dispensing fee, except where the carrier has contracted for a  
22 lower amount. Fees for pharmaceuticals and pharmaceutical  
23 services shall be reimbursable at the applicable fee schedule  
24 amount. Where the employer or carrier has contracted for such  
25 services and the employee elects to obtain them through a  
26 provider not a party to the contract, the carrier shall  
27 reimburse at the schedule, negotiated, or contract price,  
28 whichever is lower.

29 (c) Reimbursement for all fees and other charges for  
30 such treatment, care, and attendance, including treatment,  
31 care, and attendance provided by any hospital or other health

1 care provider, ambulatory surgical center, work-hardening  
2 program, or pain program, must not exceed the amounts provided  
3 by the uniform schedule of maximum reimbursement allowances as  
4 determined by the panel or as otherwise provided in this  
5 section. This subsection also applies to independent medical  
6 examinations performed by health care providers under this  
7 chapter. Until the five-member ~~three-member~~ panel approves a  
8 uniform schedule of maximum reimbursement allowances and it  
9 becomes effective, all compensable charges for treatment,  
10 care, and attendance provided by physicians, ambulatory  
11 surgical centers, work-hardening programs, or pain programs  
12 shall be reimbursed at the lowest maximum reimbursement  
13 allowance across all 1997 ~~1992~~ schedules of maximum  
14 reimbursement allowances for the services provided regardless  
15 of the place of service. In determining the uniform schedule,  
16 the panel shall first approve the data which it finds  
17 representative of prevailing charges in the state for similar  
18 treatment, care, and attendance of injured persons. Each  
19 health care provider, health care facility, ambulatory  
20 surgical center, work-hardening program, or pain program  
21 receiving workers' compensation payments shall maintain  
22 records verifying their usual charges. In establishing the  
23 uniform schedule of maximum reimbursement allowances, the  
24 panel must consider:

25 1. The levels of reimbursement for similar treatment,  
26 care, and attendance made by other health care programs or  
27 third-party providers;

28 2. The impact upon cost to employers for providing a  
29 level of reimbursement for treatment, care, and attendance  
30 which will ensure the availability of treatment, care, and  
31 attendance required by injured workers;

1           3. The financial impact of the reimbursement  
2 allowances upon health care providers and health care  
3 facilities, including trauma centers as defined in s. 395.401,  
4 and its effect upon their ability to make available to injured  
5 workers such medically necessary remedial treatment, care, and  
6 attendance. The uniform schedule of maximum reimbursement  
7 allowances must be reasonable, must promote health care cost  
8 containment and efficiency with respect to the workers'  
9 compensation health care delivery system, and must be  
10 sufficient to ensure availability of such medically necessary  
11 remedial treatment, care, and attendance to injured workers;  
12 and

13           4. The most recent average maximum allowable rate of  
14 increase for hospitals determined by the Health Care Board  
15 under chapter 408.

16           (14) PAYMENT OF MEDICAL FEES.--

17           (a) Except for emergency care treatment, fees for  
18 medical services are payable only to a health care provider  
19 certified and authorized to render remedial treatment, care,  
20 or attendance under this chapter. A health care provider may  
21 not collect or receive a fee from an injured employee within  
22 this state, except as otherwise provided by this chapter. Such  
23 providers have recourse against the employer or carrier for  
24 payment for services rendered in accordance with this chapter.

25           (b) Fees charged for remedial treatment, care, and  
26 attendance may not exceed the applicable fee schedules adopted  
27 under this chapter.

28           ~~(c) Notwithstanding any other provision of this~~  
29 ~~chapter, following overall maximum medical improvement from an~~  
30 ~~injury compensable under this chapter, the employee is~~  
31 ~~obligated to pay a copayment of \$10 per visit for medical~~

1 ~~services. The copayment shall not apply to emergency care~~  
2 ~~provided to the employee.~~

3 Section 2. Paragraph (a) of subsection (2), paragraph  
4 (a) of subsection (3), paragraph (b) of subsection (4), and  
5 subsection (6) of section 440.15, Florida Statutes, are  
6 amended to read:

7 440.15 Compensation for disability.--Compensation for  
8 disability shall be paid to the employee, subject to the  
9 limits provided in s. 440.12(2), as follows:

10 (2) TEMPORARY TOTAL DISABILITY.--

11 (a) In case of disability total in character but  
12 temporary in quality, 66 2/3 percent of the average weekly  
13 wages shall be paid to the employee during the continuance  
14 thereof, not to exceed 182 ~~104~~ weeks except as provided in  
15 this subsection, s. 440.12(1), and s. 440.14(3). Once the  
16 employee reaches the maximum number of weeks allowed, or the  
17 employee reaches the date of maximum medical improvement,  
18 whichever occurs earlier, temporary disability benefits shall  
19 cease and the injured worker's permanent impairment shall be  
20 determined.

21 (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

22 (a) Impairment benefits.--

23 1. Once the employee has reached the date of maximum  
24 medical improvement, impairment benefits are due and payable  
25 within 20 days after the carrier has knowledge of the  
26 impairment.

27 2. The five-member ~~three-member~~ panel, in cooperation  
28 with the division, shall establish and use a uniform permanent  
29 impairment rating schedule. This schedule must be based on  
30 medically or scientifically demonstrable findings as well as  
31 the systems and criteria set forth in the American Medical

1 Association's Guides to the Evaluation of Permanent  
2 Impairment; the Snellen Charts, published by American Medical  
3 Association Committee for Eye Injuries; and the Minnesota  
4 Department of Labor and Industry Disability Schedules. The  
5 schedule should be based upon objective findings. The schedule  
6 shall be more comprehensive than the AMA Guides to the  
7 Evaluation of Permanent Impairment and shall expand the areas  
8 already addressed and address additional areas not currently  
9 contained in the guides. On August 1, 1979, and pending the  
10 adoption, by rule, of a permanent schedule, Guides to the  
11 Evaluation of Permanent Impairment, copyright 1977, 1971,  
12 1988, by the American Medical Association, shall be the  
13 temporary schedule and shall be used for the purposes hereof.  
14 For injuries after July 1, 1990, pending the adoption by  
15 division rule of a uniform disability rating schedule, the  
16 Minnesota Department of Labor and Industry Disability Schedule  
17 shall be used unless that schedule does not address an injury.  
18 In such case, the Guides to the Evaluation of Permanent  
19 Impairment by the American Medical Association shall be used.  
20 Determination of permanent impairment under this schedule must  
21 be made by a physician licensed under chapter 458, a doctor of  
22 osteopathic medicine licensed under chapters 458 and 459, a  
23 chiropractor licensed under chapter 460, a podiatrist licensed  
24 under chapter 461, an optometrist licensed under chapter 463,  
25 or a dentist licensed under chapter 466, as appropriate  
26 considering the nature of the injury. No other persons are  
27 authorized to render opinions regarding the existence of or  
28 the extent of permanent impairment.

29         3. All impairment income benefits shall be based on an  
30 impairment rating using the impairment schedule referred to in  
31 subparagraph 2. Impairment income benefits are paid weekly at

1 the rate of 66 2/3 ~~50~~ percent of the employee's ~~average~~ weekly  
2 ~~salary temporary total disability benefit~~ not to exceed the  
3 maximum weekly benefit under s. 440.12. An employee's  
4 entitlement to impairment income benefits begins the day after  
5 the employee reaches maximum medical improvement or the  
6 expiration of temporary benefits, whichever occurs earlier,  
7 and continues until the earlier of:

8 a.(I) Eighteen weeks of eligibility for permanent  
9 impairment ratings up to and including 3 percent;

10 (II) Thirty-six weeks of eligibility for permanent  
11 impairment ratings greater than 3 percent and up to and  
12 including 6 percent;

13 (III) Fifty-four weeks of eligibility for permanent  
14 impairment ratings greater than 6 percent and up to and  
15 including 9 percent;

16 (IV) Seventy-two weeks of eligibility for permanent  
17 impairment ratings greater than 9 percent and up to and  
18 including 12 percent;

19 (V) Eighty-six weeks of eligibility for permanent  
20 impairment ratings greater than 13 percent and up to and  
21 including 14 percent;

22 (VI) Ninety-four weeks of eligibility for permanent  
23 impairment ratings greater than 14 percent and up to and  
24 including 15 percent;

25 (VII) One-hundred and five weeks of eligibility for  
26 permanent impairment ratings greater than 15 percent and up to  
27 and including 16 percent;

28 (VIII) One-hundred and nineteen weeks of eligibility  
29 for permanent impairment ratings greater than 16 percent and  
30 up to and including 17 percent;

31

1           (IX) One-hundred and thirty-three weeks of eligibility  
2 for permanent impairment ratings greater than 17 percent and  
3 up to and including 18 percent;

4           (X) One-hundred and forty-seven weeks of eligibility  
5 for permanent impairment ratings greater than 18 percent and  
6 up to and including 19 percent;

7           (XI) One-hundred sixty-one weeks of eligibility for  
8 permanent impairment ratings greater than 19 percent and up to  
9 and including 20 percent;

10           (XII) One-hundred seventy-five weeks of eligibility  
11 for permanent impairment ratings greater than 20 percent and  
12 up to and including 21 percent;

13           (XIII) One-hundred ninety-two weeks of eligibility for  
14 permanent impairment ratings greater than 21 percent and up to  
15 and including 22 percent;

16           (XIV) Two-hundred ten-weeks of eligibility for  
17 permanent impairment ratings greater than 22 percent and up to  
18 and including 23 percent;

19           (XV) Two-hundred twenty-seven weeks of eligibility for  
20 permanent impairment ratings greater than 23 percent and up to  
21 and including 24 percent;

22           (XVI) Two-hundred forty-five weeks of eligibility for  
23 permanent impairment ratings greater than 24 percent and up to  
24 and including 25 percent; or

25           (XVII) Two-hundred fifty-four weeks of eligibility for  
26 permanent impairment ratings greater than 25 percent; or

27           ~~a. The expiration of a period computed at the rate of~~  
28 ~~3 weeks for each percentage point of impairment; or~~

29           b. The death of the employee.

30           4. After the employee has been certified by a doctor  
31 as having reached maximum medical improvement or 6 weeks

1 before the expiration of temporary benefits, whichever occurs  
2 earlier, the certifying doctor shall evaluate the condition of  
3 the employee and assign an impairment rating, using the  
4 impairment schedule referred to in subparagraph 2.  
5 Compensation is ~~not~~ payable for the mental, psychological, or  
6 emotional injury arising out of depression from being out of  
7 work because of the employee's accident. If the certification  
8 and evaluation are performed by a doctor other than the  
9 employee's treating doctor, the certification and evaluation  
10 must be submitted to the treating doctor, and the treating  
11 doctor must indicate agreement or disagreement with the  
12 certification and evaluation, but the opinion of the second  
13 doctor counts in the final decision of impairment. If there is  
14 any controversy, the judge shall resolve the dispute between  
15 the two doctors. The certifying doctor shall issue a written  
16 report to the division, the employee, and the carrier  
17 certifying that maximum medical improvement has been reached,  
18 stating the impairment rating, and providing any other  
19 information required by the division. If the employee has not  
20 been certified as having reached maximum medical improvement  
21 before the expiration of 182 ~~102~~ weeks after the date  
22 temporary total disability benefits begin to accrue, the  
23 carrier shall notify the treating doctor of the requirements  
24 of this section.

25           5. The carrier shall pay the employee impairment  
26 income benefits for a period based on the impairment rating.

27           (4) TEMPORARY PARTIAL DISABILITY.--

28           (b) Such benefits shall be paid during the continuance  
29 of such disability, not to exceed a period of 182 ~~104~~ weeks,  
30 as provided by this subsection and subsection (2). Once the  
31 injured employee reaches the maximum number of weeks,



1 temporary disability benefits cease and the injured worker's  
2 permanent impairment must be determined.

3 (6) OBLIGATION TO REHIRE.--If the employer has not in  
4 good faith made available to the employee, within a 35-mile  
5 ~~100-mile~~ radius of the employee's residence, work appropriate  
6 to the employee's physical limitations within 30 days after  
7 the carrier notifies the employer of maximum medical  
8 improvement and the employee's physical limitations, the  
9 employer shall pay to the division for deposit into the  
10 Workers' Compensation Administration Trust Fund a fine of \$250  
11 for every \$5,000 of the employer's workers' compensation  
12 premium or payroll, not to exceed \$5,000~~\$2,000~~ per violation,  
13 as the division requires by rule. The employer is not subject  
14 to this subsection if the employee is receiving permanent  
15 total disability benefits or if the employer has 25 ~~50~~ or  
16 fewer employees.

17 Section 3. Paragraph (d) of subsection (2) of section  
18 440.191, Florida Statutes, is amended to read:

19 440.191 Employee Assistance and Ombudsman Office.--

20 (2)

21 (d) The Employee Assistance and Ombudsman Office may  
22 assign an ombudsman to assist the employee in resolving the  
23 dispute. If the dispute is not resolved within 30 days after  
24 the employee contacts the office, the ombudsman shall, at the  
25 employee's request, assist the employee in drafting a petition  
26 for benefits and explain the procedures for filing petitions.  
27 The employee is entitled to be represented by an attorney and,  
28 the employer or carrier is liable for payment of attorney's  
29 fees and costs.The Employee Assistance and Ombudsman Office  
30 may not represent employees before the judges of compensation  
31 claims. An employer or carrier may not pay any attorneys' fees

1 on behalf of the employee for services rendered or costs  
2 incurred in connection with this section, unless expressly  
3 authorized elsewhere in this chapter.

4 Section 4. Subsection (6) of section 440.192, Florida  
5 Statutes, is amended to read:

6 440.192 Procedure for resolving benefit disputes.--

7 (6) If the claimant is not represented by counsel, the  
8 Office of the Judges of Compensation Claims may request the  
9 Employee Assistance and Ombudsman Office to assist the  
10 claimant in filing a petition that meets the requirements of  
11 this section. If the claimant is represented by counsel, the  
12 employer or carrier must pay the attorney's fees.

13 Section 5. Paragraph (c) of subsection (11) of section  
14 440.20, Florida Statutes, applies to all claims not settled  
15 unless the claimant was injured before 1994.

16 Section 6. Paragraph (j) of subsection (4) of section  
17 440.25, Florida Statutes, is repealed.

18 Section 7. This act shall take effect upon becoming a  
19 law.

20  
21 \*\*\*\*\*

22 SENATE SUMMARY

23 Amends various sections of chapter 440, F.S., relating to  
24 workers' compensation to:  
25 Delete limitations on chiropractic treatment.  
26 Require a physician to provide copies of medical  
27 reports to injured employees.  
28 Delete certification requirements.  
29 Delete limitations on referrals between health care  
30 providers.  
31 Increase the three-member panel to a five-member panel.  
Delete a copayment for medical services.  
Increase the period for temporary total disability,  
permanent impairment, and temporary partial disability  
benefits.  
Increase the rate of payment of impairment benefits.  
Remove the prohibition against compensation for mental  
injury.  
Revise criteria for an obligation to rehire.  
Provide for payment of attorney's fees.