

**House File 2293 - Introduced**

HOUSE FILE 2293

BY KAJTAZOVIC

**A BILL FOR**

1 An Act relating to the choice of doctor to treat injuries.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 85.27, subsection 4, Code 2014, is  
2 amended to read as follows:

3 4. For purposes of this section, the employer is obliged to  
4 furnish reasonable services and supplies to treat an injured  
5 employee, and the employee has the right to choose the care.  
6 ~~If the employer chooses the care, the~~ The employer shall hold  
7 the employee harmless for the cost of the care ~~until the~~  
8 ~~employer notifies the employee that the employer is no longer~~  
9 ~~authorizing all or any part of the care and the reason for~~  
10 ~~the change in authorization. An employer is not liable for~~  
11 ~~the cost of care that the employer arranges in response to a~~  
12 ~~sudden emergency if the employee's condition, for which care~~  
13 ~~was arranged, is not related to the employment~~ chosen. The  
14 treatment ~~must~~ shall be ~~offered promptly~~ provided in a timely  
15 manner and be reasonably suited to treat the injury without  
16 undue inconvenience to the employee. If the employer or  
17 employee has reason to be dissatisfied with the care offered  
18 or provided, the employer or employee ~~should~~ shall communicate  
19 the basis of such dissatisfaction to the employee or employer,  
20 in writing ~~if requested~~, following which the employer and the  
21 employee may agree to alternate care reasonably suited to  
22 treat the injury. If the employer and employee cannot agree  
23 on such alternate care, the commissioner may, upon application  
24 and reasonable proofs of the necessity therefor, allow and  
25 order other care. ~~In an emergency, the employee may choose~~  
26 ~~the employee's care at the employer's expense, provided the~~  
27 ~~employer or the employer's agent cannot be reached immediately.~~  
28 An application made under this subsection shall be considered  
29 an original proceeding for purposes of commencement and  
30 contested case proceedings under section 85.26. The hearing  
31 shall be conducted pursuant to chapter 17A. Before a hearing  
32 is scheduled, the parties may choose a telephone hearing or  
33 an in-person hearing. A request for an in-person hearing  
34 shall be approved unless the in-person hearing would be  
35 impractical because of the distance between the parties to the

1 hearing. The workers' compensation commissioner shall issue a  
2 decision within ten working days of receipt of an application  
3 for alternate care ~~made pursuant to a telephone hearing or~~  
4 ~~within fourteen working days of receipt of an application~~  
5 ~~for alternate care made pursuant to an in-person hearing.~~  
6 The After receiving notice of an injury, the employer shall  
7 promptly notify an injured employee of the employee's ability  
8 to contest the employer's choice of right to choose care  
9 pursuant to this subsection and the employer and the employer's  
10 insurer shall not make suggestions or otherwise attempt  
11 to influence the injured employee's choice of a treating  
12 physician.

13 When it is medically indicated that no significant  
14 improvement from an injury is anticipated, the employer shall  
15 obtain a medical opinion regarding the extent of the employee's  
16 permanent disability and may arrange for a medical examination  
17 of the injured employee in order to do so. The employee shall  
18 be paid wages, at the employee's regular rate, plus whatever  
19 reasonable transportation expenses are incurred while attending  
20 the examination. The physician chosen by the employer to  
21 conduct the examination has the right to confer with and obtain  
22 from any physician retained by the injured employee sufficient  
23 history of the injury to make a proper examination. The  
24 refusal of the employee to submit to the examination shall  
25 suspend the employee's right to any compensation during the  
26 period of the refusal. Compensation shall not be payable for  
27 the period of the suspension.

28 Sec. 2. Section 85.39, unnumbered paragraph 1, Code 2014,  
29 is amended to read as follows:

30 ~~After an injury, the employee, if requested by the employer,~~  
31 ~~shall submit for examination at some reasonable time and~~  
32 ~~place and as often as reasonably requested, to a physician or~~  
33 ~~physicians authorized to practice under the laws of this state~~  
34 ~~or another state, without cost to the employee; but if the~~  
35 ~~employee requests, the employee, at the employee's own cost, is~~

1 ~~entitled to have a physician or physicians of the employee's~~  
2 ~~own selection present to participate in the examination. After~~  
3 ~~the employer obtains a medical opinion regarding the extent of~~  
4 ~~an injured employee's permanent disability pursuant to section~~  
5 ~~85.27, subsection 4, and if the injured employee believes~~  
6 ~~that the evaluation of the permanent disability contained in~~  
7 ~~the opinion is too low, the employee has the right to obtain~~  
8 ~~another medical opinion from a physician of the employee's~~  
9 ~~choice, at the employer's expense. If an employee is required~~  
10 ~~to leave work for which the employee is being paid wages to~~  
11 ~~attend the requested an examination to obtain another medical~~  
12 ~~opinion, the employee shall be compensated at the employee's~~  
13 ~~regular rate for the time the employee is required to leave~~  
14 ~~work, and the employee shall be furnished transportation to~~  
15 ~~and from the place of examination, or the employer may elect~~  
16 ~~to pay the employee the reasonable cost of the transportation.~~  
17 ~~The refusal of the employee to submit to the examination shall~~  
18 ~~suspend the employee's right to any compensation for the period~~  
19 ~~of the refusal. Compensation shall not be payable for the~~  
20 ~~period of suspension.~~

21 Sec. 3. Section 85.39, unnumbered paragraph 2, Code 2014, is  
22 amended by striking the unnumbered paragraph.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with  
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the provision of medical services and  
27 evaluation of permanent disabilities of injured employees under  
28 the workers' compensation law.

29 Code section 85.27, subsection 4, is amended to give an  
30 injured employee, instead of the employer, the right to choose  
31 the provider of medical services, at the employer's expense.  
32 If either the employee or the employer is dissatisfied with  
33 the care offered or provided, written notice must be given to  
34 the other party, and upon application and hearing the workers'  
35 compensation commissioner may allow and order other care. A

1 decision for alternate care must be issued by the commissioner  
2 within 10 working days after receipt of the application for  
3 alternate care.

4 Upon receiving notice of an injury, an employer is also  
5 required to promptly notify an injured employee of the  
6 employee's right to choose medical care and the employer and  
7 the employer's insurer are prohibited from making suggestions  
8 or otherwise attempting to influence the injured employee's  
9 choice of a treating physician.

10 When it is medically indicated that no significant  
11 improvement from an injury is anticipated, the employer is  
12 required to obtain a medical opinion regarding the extent  
13 of the employee's permanent disability and may arrange  
14 for a medical examination of the injured employee in order  
15 to do so. The employee must be paid regular wages and  
16 reasonable transportation expenses incurred while attending  
17 the examination. The physician chosen by the employer is  
18 entitled to confer with and obtain from any physician retained  
19 by the injured employee sufficient history to conduct a proper  
20 examination. The refusal of an employee to submit to the  
21 examination suspends the employee's right to any compensation  
22 during the period of the refusal. Compensation is not payable  
23 for the period of the refusal.

24 Code section 85.39 is amended to provide that after the  
25 employer obtains a medical opinion regarding the extent of  
26 an injured employee's permanent disability pursuant to Code  
27 section 85.27, subsection 4, and if the employee believes the  
28 extent of permanent disability identified in the opinion is  
29 too low, the employee has the right to obtain another medical  
30 opinion from a physician of the employee's choice, at the  
31 employer's expense.