

Amendment to HB 1352

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Paragraph; Workers' Compensation; Definitions; Good Faith Added. Amend RSA 281-  
4 A:2 by inserting after paragraph XV the following new paragraphs:

5 XVI. "Good faith" means honest, fair, and lawful conduct that supports the purpose of the  
6 law and excludes behavior that is misleading, arbitrary, or intended to deny any person the benefits  
7 or protections of the law.

8 2 New Section; Duty of Good Faith. Amend RSA 281-A by inserting after section 1 the following  
9 new section:

10 281-A:1-a Duty of Good Faith. Every person exercising a right, power, or duty under a law to  
11 which this chapter applies shall act in good faith.

12 3 Payment for Reasonable Value of Services; Dispute Resolution. Amend RSA 281-A:24, I to  
13 read as follows:

14 I.(a) The employer or the employer's insurance carrier shall pay the reasonable value of  
15 medical services provided under this chapter.

16 (b) The health care provider shall have the burden of establishing that its bill for  
17 services is reasonable.

18 (c) ~~[Effort]~~ ***A good faith effort, as defined in RSA 281-A:2, XVI*** shall be made to  
19 resolve any dispute as to the reasonable value of ~~[service]~~ ***services*** prior to applying to the  
20 commissioner for resolution of such a dispute.

21 ***(1) To expedite the resolution of a dispute, either party may voluntarily***  
22 ***request the appointment of an impartial mediator, by the commissioner of the department***  
23 ***of labor, who shall keep a list of neutral mediators. The role of such mediators shall be to***  
24 ***facilitate communication, define issues and explore alternatives, and remain neutral for***  
25 ***the purpose of helping the parties reach a mutually agreeable solution.***

26 ***(A) Each party shall be required to participate once the request is made.***

27 ***(B) This process is not intended to prejudice the case in any way but***  
28 ***serves as a non-binding opportunity to facilitate the resolution of the claims.***

29 ***(C) All costs for this process shall be equally shared by the parties.***

30 (d) Whenever an injured employee receives medical or hospital service or other remedial  
31 care under the provisions of this chapter and a dispute arises between the employer or the  
32 employer's insurance carrier and the person, firm, or corporation rendering such service or care as to

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1 the reasonable value of the service or care, the commissioner shall have exclusive jurisdiction to  
2 determine the reasonable value of such service or care. Any interested party may petition for a  
3 hearing and all interested parties shall be entitled to notice and hearing if it is determined that all  
4 ~~reasonable~~ **good faith** efforts to resolve the dispute have failed.

5 (e) The commissioner or the commissioner's authorized representative shall make a  
6 finding as to the reasonable value of such services or care rendered.

7 (f) Any party in interest aggrieved by such a finding may appeal to the compensation  
8 appeals board under RSA 281-A:43.

9 (g) ***The department of labor shall promulgate rules pursuant to RSA 541-A***  
10 ***relative to the process of mediation described in subparagraph (c)(1).***

11 4 Medical, Hospital, and Remedial Care; Civil Penalties Increased. Amend RSA 281-A:23, V to  
12 read as follows:

13 V.(a)(1) The act of the worker in applying for workers' compensation benefits constitutes  
14 authorization to any physician, hospital, chiropractor, or other medical vendor to supply all relevant  
15 information regarding the worker's occupational injury or illness to the insurer, the insurer's  
16 representative, the worker's employer, the worker's representative, the worker's employer's  
17 representative, and the department. Medical information relevant to a claim includes a past history  
18 of complaints of, or treatment of, a condition similar to that presented in the claim. Any party  
19 authorized to request medical information under this subparagraph shall include the following  
20 notice in their request for medical records in bold print in a font size at least 2 points larger than  
21 that used in the request:

22 "This request is strictly limited to medical information relevant to the occupational injury or  
23 illness that underlies the patient's workers' compensation claim, including any past history of  
24 complaints of, or treatment of, a condition similar to that presented in the claim."

25 (2) Any person who supplies information in accordance with this paragraph and with  
26 rules adopted by the commissioner shall be immune from any liability, civil or criminal, that might  
27 otherwise be incurred for such action. The physician may require evidence from the workers'  
28 representative in his or her representative capacity. This authorization shall be valid for the  
29 duration of the work-related injury or illness.

30 (3) The commissioner may assess a civil penalty of up to ~~[\$5,000]~~ **\$2,500** on any  
31 insurance carrier, self-insurer, or payor acting on behalf of such insurance carrier or self-insurer if  
32 any recipient of medical records receives a medical record which is clearly irrelevant to the workers'  
33 compensation claim and sends such record, or a copy of it, to another party not authorized to receive  
34 such record.

35 (b) The commissioner shall develop a form on which health care providers and health  
36 care facilities shall report medical, surgical or other remedial treatment. The report shall include,  
37 but is not limited to, information relative to the up-to-date medical status of the employee, any

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1 medical information relating to the employee's ability to return to work, whether or not there are  
2 physical restrictions, what those restrictions are, the date of maximum medical improvement, and,  
3 where applicable, the percentage of permanent impairment in accordance with the "Guides to the  
4 Evaluation of Permanent Impairment" published by the American Medical Association and as set  
5 forth in RSA 281-A:32, and any other information to enable the employer or insurance carrier to  
6 determine the benefits, if any, that are due and payable. In addition to the report required under  
7 this section, the health care provider shall furnish a statement confirming that the treatment or  
8 services rendered were reasonable and necessary with respect to the bodily injury sustained. The  
9 statement shall read as follows: "I certify that the narrative descriptions of the principal and  
10 secondary diagnosis and the major procedures performed are accurate and complete to the best of my  
11 knowledge." The health care provider shall date and sign the statement.

12 (c) The commissioner may assess a civil penalty of up to [~~\$5,000~~] **\$2,500** on any health  
13 care provider who without sufficient cause, as determined by the commissioner, bills an injured  
14 employee or his or her employer for services covered by insurers or self-insurers under this chapter.  
15 There shall be no reimbursement for services rendered, unless the health care provider or health  
16 care facility giving medical, surgical, or other remedial treatment furnishes the report required in  
17 subparagraph (b) to the employer, insurance company, or claims adjusting company within 10 days  
18 of the first treatment. First aid treatment is excluded from the 10-day reporting requirement.  
19 Additionally, for good cause, a hearing officer may waive the 10-day reporting requirement and order  
20 remuneration paid. The employer, claims adjustment company, self-insurer or insurer shall pay the  
21 health care provider or health care facility within [~~45~~] **30** days of receipt of a bill for services.

22 (d) Any employer, insurance carrier, injured employee, or attorney representing any  
23 such person, who receives any medical report, which includes, but is not limited to, information  
24 relative to the remedial treatment, care and attendance of the injured employee, shall file the report  
25 with the commissioner within 15 days after receipt of such report. Any medical report which has not  
26 been previously filed with the commissioner shall not be received in evidence in a contested case  
27 unless the party offering the report has furnished a copy thereof to the opposing party or his  
28 attorney at least 5 days prior to the hearing at which it is offered. The health care provider or health  
29 care facility shall also provide to the injured employee, or to his attorney, on demand, a copy of each  
30 medical report. The injured employee shall only be charged an amount reflecting the actual cost to  
31 the health care provider or health care facility in furnishing the copy. Each such health care  
32 provider or health care facility shall provide any additional information relating to the remedial  
33 treatment, care, and attendance of an injured employee that the commissioner may reasonably  
34 request as part of its investigation of a claim for benefits under this chapter. Failure to provide such  
35 reports may result in imposition by the commissioner of a civil penalty of up to \$2,500.

36 (e) The commissioner [~~shall~~] **may** assess a civil penalty of up to [~~\$5,000~~] **\$2,500** on any  
37 insurance carrier, self-insurer, or payor acting on behalf of such insurance carrier or self-insurer,

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1 which without sufficient cause, as determined by the commissioner, fails, within [45] 30 days after  
2 receipt of a medical bill:

3 (1) To make payment of such medical bill pursuant to this section; or

4 (2) To deny such payment, notifying the health care provider, employee, and labor  
5 department of such denial. This denial shall give a valid reason for the denial and shall advise the  
6 claimant of the right to petition the commissioner for a hearing.

7 ***(f) Where an insurance carrier, self-insurer, or payor acting on behalf of such***  
8 ***insurance carrier or self-insurer determines they are responsible for medical bill payments***  
9 ***and fails to make such payment in accordance with subparagraph (e)(1), the insurance***  
10 ***carrier, self-insurer, or payor acting on behalf of such insurance carrier or self-insurer***  
11 ***shall be required within 5 days following the 30 day period defined in subparagraph (e) to***  
12 ***electronically submit to the commissioner:***

13 (1) ***A notice of determination of their responsibility for medical bill***  
14 ***payments;***

15 (2) ***A statement of when the claim was received; and***

16 (3) ***An explanation of any sufficient reason that may justify the delay.***

17 ***(A) Any insurance carrier, self-insurer, or payor acting on behalf of such***  
18 ***insurance carrier or self-insurer that fails to electronically submit such information***  
19 ***within the 5 day period following the 30 day period defined in subparagraph (e) shall be***  
20 ***required to notify the commissioner of the disposition of the claim and if payment was***  
21 ***required the date the claim was paid.***

22 ***(B) Failure to comply with this subparagraph may result in a civil***  
23 ***penalty as determined by the commissioner in accordance with subparagraph (e).***

24 5 Prospective Repeal. RSA 281-A:24, I(c)(1), relative to a pilot program for the mediation of  
25 workplace compensation disputes, is repealed.

26 6 Effective Date.

27 I. Sections 1-4 of this act shall take effect 60 days after its passage.

28 II. Section 5 of this act shall take effect 3 years following sections 1-4 taking effect.

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2026-0150h

AMENDED ANALYSIS

This bill establishes an optional mediation program for the resolution of contested workers compensation claims. This bill modifies the reasonable effort standard for resolving claims with a good faith standard, and adds a requirement of a duty to act in good faith for all parties exercising a right, power, or duty under the chapter.