

TO AMEND THE EMPLOYEES' COMPENSATION ACT

JUNE 2, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. GRAHAM, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 3545]

The Committee on the Judiciary, to whom was referred the bill S. 3545, after consideration, report the same favorably and recommend that the bill do pass.

This legislation is intended to correct the language of the law so as to overcome some recent decisions of the Comptroller General which seriously interfere with the work of the United States Employees' Compensation Commission in furnishing medical attention to injured Government employees and in securing for them artificial limbs and other prosthetic appliances.

The bill has the indorsement of the United States Employees' Compensation Commission, and there is appended hereto as a part of this report a memorandum furnished by the commission which fully sets forth the necessity for this legislation.

MEMORANDUM IN REGARD TO AMENDMENT OF EMPLOYEES' COMPENSATION ACT

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The other amendments are those to sections 9, 21, and 23 of the employees' compensation act which relate exclusively to medical examinations required by the commission (secs. 21 and 23) and treatment and supplies (sec. 9) prescribed or recommended by physicians and the necessary and reasonable expenses incident to securing such examinations and treatment and supplies. The need for amendment here arises out of decisions of the Comptroller General, who is of the opinion that the language of the act does not cover all the services and supplies and expenses for securing the same which heretofore have been furnished by the commission upon the recommendation of physicians that the services and supplies recommended were necessary to cure or to give relief or to reduce the degree or period of disability and thus aid in lessening the amount of the monthly compensation payable. The amendments proposed will merely assure the continuance of the practice which has prevailed since September, 1916,

and which has not until recently been questioned by the General Accounting Office. They would not result in any increase in cost whatever beyond the amounts which have heretofore been paid for the purposes indicated.

The Comptroller General's decisions, to which reference has been made, affect the compensation act as it has heretofore been construed in three important respects:

(1) The Comptroller General holds that the law does not authorize the furnishing of artificial limbs, artificial eyes, and other prosthetic appliances to injured employees.

(2) No personal expenses in excess of \$5 a day may be paid when a disabled employee is required by the commission to travel away from his home or place of employment for medical examination.

(3) No subsistence or personal expenses other than for transportation may be paid when an employee is obliged to travel away from his home or place of employment in order to receive proper medical treatment, although authorized or approved by the commission.

(1) In denying the right of the commission to furnish artificial limbs, artificial eyes, and other prosthetic appliances, the Comptroller General says:

"The term 'supplies' as used in the statute includes only those ordinarily furnished by physicians and hospitals, such as medicines and surgical dressings. Artificial eyes and limbs or other prosthetic appliances are not ordinarily furnished by physicians or hospitals, but are procured from those who make a specialty of the manufacture and fitting of such appliances. It will thus be seen that there is no authority in the employees' compensation act for furnishing prosthetic appliances, such as artificial eyes and limbs, to disabled Government employees. Neither can the fitting of such appliances be regarded as proper medical and surgical and hospital treatment." (Dec. Comp. Gen. Oct. 29, 1925, and decision, upon appeal, of Marc. 5, 1926.)

The commission states that the result of the commission's inability to furnish the supplies to which the Comptroller General's decision refers will inevitably be the payment of increased amounts as compensation because of the inability of the disabled employee to return to work. It is usually considered that the furnishing of adequate medical treatment is a more important benefit under workmen's compensation acts than the payment of compensation. This appears to be especially applicable to a law like the employees' compensation act under which compensation is payable without limit, so long as the employee remains incapacitated for work. Failure, therefore, to furnish adequate medical treatment is certain to result in large payments of compensation. It is believed, therefore, that section 9 should be amended as reported, in order that there may be proper limitation upon payments of compensation for disability.

(2) Another ruling of the Comptroller General holds that personal expenses may not be paid in excess of \$5 a day when a disabled employee is required by the commission to travel away from his home or place of employment in order to submit to examination. He bases this ruling on the ground that the general provisions of the law of April 6, 1914 (in regard to expenses of employees on field duty), are applicable to disabled beneficiaries of the compensation act. The commission has consistently made careful examination of expense accounts of beneficiaries required to travel for medical examinations, and no unnecessary or unreasonable charges are allowed. It finds that oftentimes an amount less than \$5 a day is sufficient but that in other cases the limitation is not reasonable. At times employees who are crippled and unable to get about by the ordinary means of travel or without the services of an attendant must be sent for medical examination. The expenses to which the Comptroller General here takes exception arise under the provisions of section 21 of the compensation law. The amendment suggested has no other purpose than to authorize the commission in its discretion to allow all necessary and reasonable expenses according to the circumstances of the individual case exceeding \$5 a day if such amount appears to be necessary and reasonable.

(3) The Comptroller General, in a recent decision (December 23, 1925) has held that the law does not authorize the commission to pay a disabled employee any expenses other than transportation when sent for treatment. This decision is contrary to the practice which has been in effect for fully nine years without question by the General Accounting Office. It is obvious in many cases that the treatment necessary to cure or to reduce disability could not be furnished at the employee's home or place of employment and the allowance of transportation only to the employee would not be sufficient to make it possible for him to secure proper treatment. This is especially true among employees of the Forest Service

and of the engineer department engaged on river and harbor work. It is also true of many postal employees living in small or remote communities. The payments which the commission has been making in connection with transportation and expenses to secure treatment are believed necessary in order to keep the compensation payments within reasonable bounds. Section 9 as contemplated by the bill will, it is believed, cure the defects in the section pointed out by the Comptroller General and permit the commission to continue the practice which has been followed in the past. The amendment recommended has a purpose similar to that recommended for section 21, namely, to permit the commission to pay, in its discretion, actual necessary and reasonable expenses according to the circumstances of the case without regard to the provisions of existing law limiting expenses of employees to \$5 a day.

The amendment of section 21 and of section 23, also, has another purpose. Under existing law, the expenses of medical examinations required by the commission, including the claimant's transportation and other traveling expenses in order to secure the examination, are payable from the appropriation for the contingent expenses of the commission. In the amendments recommended these charges will be transferred from contingent expenses and paid from the compensation fund. The amounts involved are relatively small in different years, running from eight to fifteen hundred dollars, but the present practice involves great difficulty in distinguishing between expenses incident to securing medical treatment and expenses incident to securing examinations when required by the commission. No useful purpose is served in attempting to separate these two classes of expenditures, and because of this the amendment of these sections is recommended so that in the future all such charges will be paid from the compensation fund.

