

Workers' Comp Regulatory Activity

July 15, 2018 – September 1, 2018

Alaska

Medical Fee Schedule Changes

Upcoming Action: Nothing scheduled

Regulation ID: AK38870

Rule Summary:

The Board is discussing changes to the medical fee schedule as part of their annual update. Although a draft of the changes is not yet available, areas for consideration are as follows (as specified in the 6/15/2018 meeting materials):

- (1) Address whether geographic practice cost index (GPCI) numbers are rounded before multiplying Relative Value Units (RVU);
- (2) Address how multiple procedure payment reduction (MPPR) is applied;
- (3) Clinical Laboratory (CLAB) no longer has a state-specific modifier so need to update language to reflect this;
- (4) Address whether need guidelines for hearing aid payment;
- (5) Address how anesthesia modifiers in appendix A are paid;
- (6) Physical therapist and other non-physician providers reimbursement/utilization/frequency limitations and acute care inpatient hospital services;
- (7) Long-term, non-acute inpatient hospital stays and
- (8) Define Maximum Allowable Reimbursement (MAR) and whether it means MAR for the procedure as calculated under the physician fee schedule.

8/10/2018 Meeting Agenda:

http://labor.alaska.gov/wc/med-serv-comm/2018-08-10-Agenda_MSRC.pdf

7/27/2018 Meeting Agenda and Packet:

<http://labor.alaska.gov/wc/med-serv-comm/meeting-materials-2018-07-27.htm>

7/13/2018 Meeting Agenda:

http://labor.alaska.gov/wc/med-serv-comm/2018-07-13-Agenda_MSRC.pdf

6/15/2018 Meeting Minutes:

http://labor.alaska.gov/wc/med-serv-comm/2018-07-13-MSRC_Packet.pdf

6/15/2018 Meeting Materials:

http://labor.alaska.gov/wc/med-serv-comm/2018-06-15-MSRC_Packet.pdf

6/15/2018 7/13/2018 and 7/27/2018 Meeting Notice:

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<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=189749>

Board website:

<http://labor.alaska.gov/wc/>

Rule Development:

More information is pending from staff regarding any action taken at the 8/10/2018 meeting. If approved, the Board will draft a rule incorporating the changes and publish a notice of rulemaking in the Alaska Register, along with a 30-day comment period.

Minutes from the Board's Medical Services Committee 6/15/2018 were recently released. At the meeting, the Committee decided that GPCI numbers should be rounded to the nearest two decimal places after the conversion factor has been applied, that the MAR means the physician fee schedule maximum allowable amount, not to make a carve-out to allow physical therapists to bill at 100% of the physician MAR, and that all Q modifier codes should be included in the Anesthesia section of the Fee Schedule. These decisions will be reflected in the next draft Fee Schedule that will be presented to the Committee at the next meeting. Additionally, the Committee discussed options for hearing aid payment rules, the difference in MPPR between Medicare and Alaska Fee Schedule, and additional reimbursement for extended inpatient hospital stays resulting from long-term non-acute care. The Committee will continue discussion of these items at the next meeting upon receiving more information.

The Medical Services Review Committee met 7/13/2018 and 7/27/2018. The Committee and the Board convened a joint meeting on 8/10/2018, in which the Board discussed whether to approve the recommendation.

Arizona

Treatment Guidelines

Upcoming Action: Nothing Scheduled

Regulation ID: AZ37809

Rule Summary:

The Commission adopted amendments to treatment guidelines for providers. The amendments (1) prescribe the use of evidence-based treatment guidelines as a tool to support clinical decision making and quality health care delivery to injured workers within Arizona's workers' compensation system; (2) adopt Work Loss Data Institute's Official Disability Guidelines – Treatment in Workers Compensation (the "Official Disability Guidelines" or "ODG") as the standard reference for evidence-based medicine; (3) until further action of the Commission, limit the applicability of ODG to the management of chronic pain and the use of opioids for all stages of pain management; (4) outline an administrative process for the Commission to modify the applicability of ODG; (5) outline a noncompulsory process for a medical provider or injured worker to seek preauthorization from a payer for medical services or treatment; (6) establish an administrative review process to help resolve disputes between medical providers, injured workers, and payers; and (7) outline procedures for bringing unresolved disputes to the Commission for

administrative hearing.

Notice of Final Rules (pdf p. 17):

https://apps.azsos.gov/public_services/register/2018/30/contents.pdf

Agenda for 7/12/2018 Meeting:

<https://grrc.az.gov/sites/default/files/Council%20Meeting%20Agenda%20-%20July%2012%2C%202018.pdf>

Agenda for 7/10/2018 Meeting (cancelled):

<https://grrc.az.gov/sites/default/files/Council%20Meeting%20Agenda%20-%20July%2010%2C%202018.pdf>

Notice of Proposed Rules (pdf p. 37):

http://apps.azsos.gov/public_services/register/2018/11/04_proposed.pdf

Rule Development:

The rules are final. The effective date of the rules is 10/1/2018.

The Commission published notice of the proposed rules. A public hearing was held 4/16/2018. Comments were due 4/16/2018. The Commission submitted the rules to the Governor's Regulatory Review Council. The Council held a study session 6/26/2018 to allow staff and stakeholders to comment on the rules. The Council approved the rules 7/12/2018.

2018-2019 Physicians and Pharmaceutical Fee Schedule

Upcoming Action: Nothing Scheduled

Regulation ID: AZ38085

Rule Summary:

The Commission approved changes Physicians' and Pharmaceutical Fee Schedule. Changes to the fee schedule include the following revising all Category III codes (0019T–0436T) as Relativity Not Established (RNE); maintaining continued use of Medi-Span for determining Average Wholesale Price ("AWP") in the 2018/2019 Fee Schedule; adoption of the service codes, RVUs and reimbursement values contained in Tables 1 through 3 (see "Preliminary RBRVS 2018 Fee Schedule") and adoption of the Physicians as Assistants at Surgery: 2018 Update.

A final fee schedule is not yet available.

6/7/2018 Commission Meeting Agenda:

<https://www.azica.gov/sites/default/files/media/June%207%2C%202018%20agenda.pdf>

4/26/2018 Public Hearing Notice:

<https://www.azica.gov/sites/default/files/media/April%2026%202018%20agenda.pdf>

Preliminary 2018 RBRVS Fee Schedule:

https://www.azica.gov/sites/default/files/media/Proposed%20AZ%20RBRVS%20Fee%20Schedule_2018_4-6-18.xlsx

Staff Recommendations and Request for Public Comment for 2018/2019 Fee Schedule:

<https://www.azica.gov/sites/default/files/media/2018%20Fee%20Schedule%20Staff%20Proposal%20and%20Request%20for%20Public%20Comment%20.pdf>

Rule Development:

The Commission met 6/7/2018 and adopted all of the recommendations presented in the "Staff Recommendations and Request for Public Comment for 2018/2019 Fee Schedule" document. Changes to the fee schedule include updating Resource-Based Risk Value System (RBRVS) conversion factors for services concerning: surgery/radiology (\$82.38), anesthesia (\$64.63) and all other services (\$64.63). Additionally, the fee schedule continues to assign Relative Value Units (RVUs) to consultation services; however, the consultation service codes observe the bundling principles used by CMS to avoid excessive reimbursement rates. Further, the Commission accepted the recommendation that Medi-Span continues to be used for determining AWP in the fee schedule.

A copy of the final fee schedule is not yet available. Staff expects to have the fee schedule posted online by September 2018 and effective by October 2018.

The Commission accepted written comments in advance of the hearing, as well as oral comments during the hearing. In Arizona, fee schedules are reviewed annually and typically become effective October 1. The Commission held a public hearing 4/26/2018 to discuss the fee schedule. No written or public comment was provided on the fee schedule.

Arkansas

Fee Schedules

Upcoming Action: Comments Accepted Until Further Notice
Regulation ID: AR20879

Rule Summary:

The Arkansas Workers' Compensation Commission (Commission) medical fee schedules are based upon the Health Care Financing Administration's (HCFA) Medicare Resource Based Relative Value Scale (RBRVS), utilizing HCFA's national relative value units and Arkansas specific conversion factors adopted by the Commission. This includes the determination of ambulatory surgery center and radiology fees.

2018 Medical Fee Schedule:

http://www.awcc.state.ar.us/rule30misc/2018_fee_schedule.pdf

2018 Laboratory Fee Schedule:

http://www.awcc.state.ar.us/rule30misc/2018_lab_schedule.pdf

Fee Schedules:

<http://www.awcc.state.ar.us/medfeetoc.html>

Rule Development:

The Commission released the 2018 medical fee schedule and laboratory fee schedule.

The Commission updates the medical fee schedules annually. Stakeholders may submit written comments and recommendations at any time, which the Commission will review internally to determine if any revisions to the fee schedule should be made.

California

Establishment of the Vocational Experts Fee Schedule

Upcoming Action: Nothing Scheduled

Regulation ID: CA21221

Rule Summary:

The Department's Workers' Compensation Division is discussing possible rules to establish a vocational expert fee schedule. The fee schedule would be created in response to legislation, AB 1168 (2011), that required the Division to establish the fee schedule rules. The Division has not developed the scope of the regulation, however the legislation requires that the fee schedule include reasonable hourly fees paid for services provided by vocational experts.

A copy of the legislation is available at:

http://leginfo.ca.gov/pub/11-12/bill/asm/ab_1151-1200/ab_1168_bill_20111007_chaptered.html

Rule Development:

The Department is internally reviewing the study and will draft the vocational expert fee schedule. No events have been scheduled for 2018, however staff expects the rule proposal this year. The rule development timeline is subject to change.

The Division began to internally discuss the development of these rules. Based on the legislation, the fee schedule was expected to be effective by 1/1/2013, however that deadline was not reached because staff did not have sufficient time to complete a rulemaking. The Department enlisted the Berkeley Research Group to prepare a study and analysis in 2014. Staff previously indicated a general timeline for development was not available due to several projects being worked on in the Division.

2018 Fee Schedules

Upcoming Action: Nothing Scheduled

Regulation ID: CA36615

Rule Summary:

The Division is responsible for maintaining the workers' compensation fee schedule (i.e. "the Official Medical Fee Schedule") for physicians, ambulance fees and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS). The Division uses the Department of Health Care Services and the Medi-Cal Division fee schedule to make updates throughout the year. California's workers' compensation physician fee schedule is based on the resource-based value scaled (RBRVS) used in the Medicare Physician Fee Schedule.

7/1/2018 DMEPOS Fee Schedule:

<http://www.dir.ca.gov/dwc/OMFS9904.htm#3>

6/28/2018 Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule:

<http://www.dir.ca.gov/dwc/OMFS9904.htm#6>

6/27/2018 Physician and Non-Physician Practitioner Services Fee Schedule:

<https://www.dir.ca.gov/dwc/OMFS9904.htm#7>

4/30/2018 Pathology and Clinical Laboratory Fee Schedule:

<http://www.dir.ca.gov/dwc/OMFS9904.htm#2>

3/28/2018 DMEPOS Fee Schedule:

<http://www.dir.ca.gov/dwc/OMFS9904.htm#3>

2/28/2018 Ambulance Fee Schedule:

<http://www.dir.ca.gov/dwc/OMFS9904.htm#1>

1/1/2018 Rate Change:

<https://oal.ca.gov/wp-content/uploads/sites/28/2018/01/2z-2018.pdf>

Rule Development:

The Division posted notice that the DMEPOS fee schedule was updated effective 7/1/2018.

The Ambulance and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Fee Schedule were updated to conform with Medicare changes effective 1/1/2018. The Division issued an order specifying that the physician services and non-physician practitioner services fee schedule portion of the Official Medical Fee Schedule is adjusted to conform to changes to the Medi-Cal rates filed for services rendered on or after 2/5/2018. The Division posted an order adjusting the Ambulance Services section of the Official Medical Fee Schedule (OMFS) to conform to relevant 2018 changes in the Medicare payment system. The changes are effective 2/28/2018. The Division released notice of updates to the Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule in the OFMS to conform to CMS hospital outpatient prospective payment system (HOPPS) final rule and the hospital inpatient prospective payment system (IPPS) final rule. The changes are effective 3/15/2018. The Division released notice of updates to the Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) section of the OFMS to conform to the 2018 changes in the Medicare payment system. The changes are effective 4/1/2018. In addition, the Division released notice of updates adjusting the Hospital Outpatient Departments and Ambulatory Surgical Centers section of the OMFS. Changes include adding the CMS OPPS April 2018 Addendum, amongst others. The changes are

effective 4/1/2018.

The Division posted an order adjusting the Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule portion of the OFMS to conform to the 2018 changes in the Medicare payment system. The changes are effective 4/1/2018. Changes included adoption of column A of the April 2 update to CMS' ASC addendum AA and column A of the April 2 update to CMS' ASC addendum EE for services rendered on or after 4/1/2018.

The Division posted an order 4/30/2018 adjusting the Pathology and Clinical Laboratory Fee Schedule portion of the OFMS to conform to the 2018 changes in the Medicare payment system. The changes were effective 4/1/2018. The Division posted an order 6/27/2018 adjusting the Physician and Non-Physician Practitioner Fee Schedule portion of the OFMS to conform to 2018 changes in the Medicare payment system. The changes are effective 7/1/2018. The Division posted an order 6/28/2018 adjusting the Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule portion of the OFMS to conform to 2018 changes in the Medicare payment system. The changes are effective 7/1/2018.

Workers' Compensation Official Medical Fee Schedule - Physician Fee Schedule

Upcoming Action: Nothing scheduled

Regulation ID: CA37741

Rule Summary:

The Department has proposed amendments to the Physician Fee Schedule, which would eliminate the use of the average statewide geographic adjustment factor and adopt Medicare's MSA-based locality-specific geographic adjustment factors known as the Geographic Practice Cost Indices (GPCIs). In addition, the proposed rule would make the following changes:

- (1) Establishes formulas for calculating the maximum fee for physician and nonphysician practitioner services other than anesthesia;
- (2) Specifies how physician-administered drugs, biologicals, vaccines, and blood products are paid. In particular, the rule specifies how the RBRVS fee schedule will be used to determine the maximum reimbursement for the drug administration fee. The proposed amendment replaces "RBRVS" with "physician";
- (3) Establishes the definition of the "global surgical package", indicates how surgical procedures with a global period are identified in the National Physician Fee Schedule Relative Value File, and specifies the components included and those not included in the global surgical package, and
- (4) Specifies the billing and payment rules for surgeries involving co-surgeons and team surgeons.

Finally, the rule would establish a table of anesthesia conversion factors ("Table A") adjusted by GPCI locality. The conversion factors apply to anesthesia services provided on and after January 1, 2019. The Administrative Director of the Division of Workers' Compensation is authorized to update Table A in the form of an Administrative Director Order.

March 2018 Text of Proposed Rulemaking:

<http://www.dir.ca.gov/dwc/DWCPropRegs/OMFS-Table-A/Text-of-regulations.pdf>

March 2018 Notice of Proposed Rulemaking:

<http://www.dir.ca.gov/dwc/DWCPropRegs/OMFS-Table-A/Notice.pdf>

Rule Development:

Staff are reviewing any comments received. Please note this rulemaking is exempt from the rule proceeding requirements specified in the APA and therefore will not be published in the California Register.

The Department issued a notice of proposed rulemaking to revise the Physician and Non-Physician Practitioner Services (Physician Fee Schedule). A public hearing was held 4/17/2018. Comments were due 4/17/2018.

Interpreter Fee Schedule Changes

Upcoming Action: Nothing Scheduled

Regulation ID: CA38099

Rule Summary:

The Division has drafted amendments to interpreter fee schedule rules. The rule would reduce double billing fees for multiple interpretations during the same time slot and clarifies the requirements for selecting an arrangement of interpreters and require. In addition, the rules require, for medical treatment or medical-legal evaluations, that the interpreter be either certified for hearings and depositions, certified as a medical interpreter by the California Department of Human Resources, or has a current certification or credential in specific languages by either the Certification Commission for Healthcare Interpreters or the National Board of Certification for Medical Interpreters.

4/13/2018 Stakeholder Comments:

<http://www.dir.ca.gov/dwc/ForumDocs/Interpreter/Comments.pdf>

4/13/2018 Public Comment Forum:

<http://www.dir.ca.gov/dwc/DWCWCABForum/Interpreter.htm>

Draft Rules:

<http://www.dir.ca.gov/dwc/ForumDocs/Interpreter/Text-of-Regulations.pdf>

Current rules:

https://www.dir.ca.gov/t8/9795_3.html

Rule Development:

The Division released the draft rules. Comments were due 4/13/2018. Staff are internally any comments received. Comments were received by the following organizations: California Coalition on Workers' Compensation; California Association of Joint Powers Association; California Chamber of Commerce and the Association of Independent Judicial Interpreters of California. A notice of proposed rulemaking will

be published in the California Register, along with a 45-day public comment period and date for a public hearing.

Evidence-Based Updates to the Medical Treatment Utilization Schedule (MTUS)

Upcoming Action: Nothing Scheduled

Regulation ID: CA38750

Rule Summary:

The Division has proposed amendments concerning evidence-based updates to the Medical Treatment Utilization Schedule (MTUS). These proposed evidence-based updates to the MTUS incorporate by reference the most recent American College of Occupational and Environmental Medicine's (ACOEM) treatment guidelines regarding the following:

- (1) Traumatic Brain Injury ([ACOEM November 15, 2017](#));
- (2) General Approaches section of the MTUS: Prevention ([ACOEM May 1, 2011](#));
- (3) General Approach to Initial Assessment and Documentation ([ACOEM July 25, 2016](#)) and
- (4) Cornerstones of Disability Prevention and Management ([ACOEM May 1, 2011](#)).

7/18/2018 Public Hearing Transcript:

<https://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Evidence-Based-Updates/Transcript.pdf>

Notice of Proposed Rulemaking

<https://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Evidence-Based-Updates/Notice.pdf>

Proposed Administrative Director Order:

<https://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Evidence-Based-Updates/AD-Order.pdf>

Text of Proposed Rulemaking:

<https://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Evidence-Based-Updates/Text-of-Regulations.pdf>

Rule Development:

The Division issued a notice of proposed rulemaking to revise the Medical Treatment Utilization Schedule (MTUS). A public hearing was held 7/18/2018. Comments were due 7/18/2018.

Staff are reviewing any comments received. Please note this rulemaking is exempt from the rule proceeding requirements specified in the APA and therefore will not be published in the California Register.

Colorado

Guidelines for Prescribing and Dispensing Opioids

Upcoming Action: Nothing scheduled

Regulation ID: CO36011

Rule Summary:

The Division finalized guidance for prescribing and dispensing opioids. The guidance incorporates three prescribing thresholds upon which the prescriber should re-evaluate the patient and the effectiveness of the opioid treatment and employ risk mitigation strategies, including prescriptions for Naloxone, if opioid treatment is to continue:

(1) Dosage: 50 mme/day;

(2) Formulation: Long-acting or extended-relief formulation and

(3) Duration: 3-7 days for acute pain; 30 days for sub-acute pain and 90 days for chronic, non-cancer pain.

Informational Session on Final Guidelines for Prescribing and Dispensing Opioids (4/20/2018):

https://www.youtube.com/watch?v=rsS_cDPSy6c&feature=youtu.be

Final Guidelines for Prescribing and Dispensing Opioids (3/16/2018):

<https://drive.google.com/file/d/19xrPqsCbaHHA9nTD1F13NeCn5kwK60zR/view?usp=sharing>

Board of Pharmacy Meeting (3/15/2018):

https://drive.google.com/file/d/1uxpIVmqu59heCv_DArdfiaogTDVFBWIF/view

Text of Draft Policy:

https://drive.google.com/file/d/1abOhDzp_BlqrAuAG0waBtw5n-7p070Dr/view?usp=sharing

Text of Existing Policy (10/15/2014):

<https://drive.google.com/file/d/0B-K5DhxXxJZbd01vVXdTTkIZLVU/view>

Division of Professions and Occupations Website:

<https://www.colorado.gov/pacific/dora/node/87936>

Rule Development:

The Division finalized the guidance 3/16/2018. The guidance was adopted by all six of Colorado's prescribing and dispensing Boards: the Colorado Dental Board, the Colorado Medical Board, the State Board of Nursing, the State Board of Optometry, the Colorado Podiatry Board, and the State Board of Pharmacy, and endorsed by the State Board of Veterinary Medicine. The Boards will continue to evaluate the guidance, incorporating new legislation and collaborating with other state agencies, researchers, practitioners, patients, the Colorado Consortium for Prescription Drug Abuse Prevention, and other stakeholders to identify and evaluate outcomes.

The Division held a stakeholder meeting 8/30/2017. The Division held additional Opioid Policy Workgroup meetings for the members of the four Boards and one Taskforce listed above 9/20/2017 through 9/25/2017. The Division held stakeholder meetings 10/27/2017, 11/14/2017, 12/5/2017 and 12/28/2017 to discuss potential updates to the Policy. Written comments were accepted in advance of the meeting. Staff expected to finalize the draft policy and present it to the four Boards for consideration in February 2018. Please note that policy guidance documents such as this do not need to proceed through a formal rulemaking process, and no register notices may be published. The Board of

Pharmacy met 3/15/2018 and heard an update regarding the proposed policy for prescribing and dispensing opioids from the Deputy Director of Legal Affairs.

Rules of Procedure with Treatment Guidelines

Upcoming Action: Nothing Scheduled

Regulation ID: CO37802

Rule Summary:

The Division proposed amendments to Workers' Compensation rules pertaining to treatment guidelines. The rule applies to parties and physicians participating in the Division Independent Medical Examination (DIME) program. The proposal impacts all aspects of DIME procedures.

Proposed Rule Language:

<https://www.sos.state.co.us/CCR/Upload/NoticeOfRulemaking/ProposedRuleAttach2018-00093.rtf>

Notice of the Proposed Rule:

https://www.colorado.gov/pacific/sites/default/files/Rule_11_Notice.pdf

Division Webpage:

<https://www.colorado.gov/pacific/cdle/workers-compensation-proposed-and-adopted-rules>

Rule Development:

The Division is currently in the process of reviewing public comments. Following the review, the Division will determine whether to make any changes, or whether to adopt the proposal as final.

The proposal was published in the State Register. A regulatory hearing was held on 4/25/2018. Written comments were accepted up until the hearing.

Amendments to Medical Fee Schedule and Utilization Review - Annual Update

Upcoming Action: Nothing Scheduled

Regulation ID: CO38794

Rule Summary:

The Department proposed amendments to rules concerning the medical fee schedule and utilization review guidelines. Specifically, the amendments rescind existing rules and reorganize the rules into new sections. Although the amendments primarily clarify specific rules, there are notable changes as specified below.

Definitions

The amendments clarify that "payer" includes self-insurers and specifies that the use of agents, including PPO networks, bill review companies, TPAs and case management companies does not relieve the self-insured employer or insurer from their legal responsibilities. In addition, the amendments

remove the definition of "supply" which included any single supply, DME, biologic item or single drug dose for which the billed amount exceeds \$500.

Required Use of Fee Schedule

The amendments specify that all providers and payers must use the Medical Fee Schedule to determine the maximum allowable payments for any medical treatments or services within existing law and regulation, except in the following circumstances: (1) the payer and an out-of-state provider negotiate reimbursement in excess of the fee schedule when required to obtain reasonable and necessary care for the worker and (2) the Uninsured Board may negotiate rates of reimbursement for medical providers.

Notice of the Proposed Rule:

<https://www.sos.state.co.us/CCR/DisplayHearingDetails.do?trackingNumber=2018-00249>

Detailed Rulemaking Information:

https://www.dora.state.co.us/pls/real/SB121_Web.Show_Rule?p_rule_id=7483

Draft Rules:

https://www.colorado.gov/pacific/sites/default/files/Rule_16_Proposed_2019.pdf

Rule Development:

The Department is currently in the process of reviewing public comments. Following the review, the Division will take a vote to adopt final rules. The final rules must undergo a review by the Office Attorney General as a part of the rulemaking process.

The Department drafted amendments. The Department published notice of the medical fee schedule and utilization review changes as part of their annual update. A public hearing was held 8/14/2018.

Florida

Utilization and Reimbursement Dispute Review

Upcoming Action: Nothing Scheduled

Regulation ID: FL30278

Rule Summary:

The Department proposed amendments to rules concerning utilization and reimbursement dispute review, and it is discussing amendments to rules. The rules address the process for resolution of disputes between workers' compensation carriers and health care providers. The amendments will (1) incorporate by reference updated forms, (2) provide greater detail about the materials that need to be included in a petition for dispute resolution, (3) change the time for a carrier to respond to a petition from 10 days to 30 days, and (4) make other changes.

Notice of Proposed Rules (July 2018):

https://www.flrules.org/gateway/notice_files.asp?ID=20694482

Notice of Withdrawal (July 2018):

https://www.flrules.org/gateway/notice_Files.asp?ID=20658010

Notice of Rule Development (May 2018):

https://www.flrules.org/gateway/notice_Files.asp?ID=20413958

Notice of Rule Development (February 2018):

https://www.flrules.org/gateway/notice_Files.asp?ID=20029062

Notice of Correction (May 2017):

https://www.flrules.org/gateway/notice_Files.asp?ID=18916181

Notice of Change (May 2017):

https://www.flrules.org/gateway/notice_Files.asp?ID=18916278

Notice of Proposed Rules (December 2016):

https://www.flrules.org/gateway/notice_Files.asp?ID=18347373

Second Notice of Rule Development (May 2016):

https://www.flrules.org/gateway/notice_Files.asp?ID=17560606

Notice of Rule Development (December 2015):

https://www.flrules.org/gateway/notice_Files.asp?ID=16896544

Rule Development:

The Department may file the rules for adoption. The deadline for the Department to file the rules for adoption is 10/23/2018. The rules will become effective 20 days after filing unless otherwise stated.

The Department published notices of rule development. A rule development workshop was scheduled for 6/10/2016. The Department published a notice of proposed rules, and it accepted comments until 12/28/2016. The Department postponed the filing of the rules for adoption to allow it time to address concerns of the Joint Administrative Procedures Committee. The Department corrected the notice of proposed rules and revised the rules. The rules were challenged. The Administrative Law Judge determined that all of proposed Rule 69L-31.016 and part of proposed Rule 69L-31.005 are invalid exercises of delegated legislative authority. The Department published a notice of rule development. A rule development workshop was scheduled for 2/23/2018. The Department published another notice of rule development. The Department held a rule development workshop 5/30/2018. The Department published a notice of withdrawal for the previously proposed rules. The Department published another notice of proposed rules. The Department held a public hearing 8/15/2018 and accepted comments until the end of the public hearing.

Amendments to Rules Concerning Workers' Compensation Reimbursement

Upcoming Action: Nothing Scheduled

Regulation ID: FL34384

Rule Summary:

The Department adopted amendments to rules concerning workers' compensation reimbursement. The Three-Member Panel approved the Health Care Provider Reimbursement Manual, 2017 Edition; Ambulatory Surgical Center Reimbursement Manual, 2017 Edition; and Hospital Reimbursement Manual, 2017 Edition. The Department proposed amendments to rules concerning workers' compensation reimbursement to adopt the manuals.

Notice of Adopted Rules:

https://www.flrules.org/gateway/notice_Files.asp?ID=19855044

Notice of Proposed Rule for Rule 69L-7.020:

https://www.flrules.org/gateway/notice_Files.asp?ID=19641741

Notice of Proposed Rule for Rule 69L-7.100:

https://www.flrules.org/gateway/notice_Files.asp?ID=19641935

Notice of Proposed Rule for Rule 69L-7.501:

https://www.flrules.org/gateway/notice_Files.asp?ID=19642032

Notice of Rule Development:

https://www.flrules.org/gateway/notice_Files.asp?ID=19285751

Notice of Public Meeting:

https://www.flrules.org/gateway/notice_Files.asp?ID=18768644

Rule Development:

The rules must be ratified by the Legislature before they can become effective.

The Three-Member Panel met 4/19/2017 to review and adopt the manuals. Comments were accepted. The Department published a notice of rule development, and it held a public meeting on 8/25/2017. The Department published notice of proposed rules. Comments were due 11/21/2017. The Department filed the rules for adoption 12/15/2017.

Amendments to Rules Concerning Workers' Compensation Reimbursement

Upcoming Action: Rule Development Workshop 8/24/2018

Regulation ID: FL37757

Rule Summary:

The Department is discussing amendments to rules concerning workers' compensation reimbursement. The Three-Member Panel reviewed the 2018 schedules for maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, and ambulatory surgical centers. The Department will propose amendments to rules concerning workers' compensation reimbursement to adopt the fee schedules.

Notice of Rule Development:

https://www.flrules.org/gateway/notice_Files.asp?ID=20703115

Notice of Cancellation of 7/6/2018 Public Meeting:

https://www.flrules.org/gateway/notice_Files.asp?ID=20612420

Notice of 7/6/2018 Public Meeting:

https://www.flrules.org/gateway/notice_Files.asp?ID=20581962

Notice of 4/10/2018 Public Meeting:

http://www.flrules.org/gateway/notice_Files.asp?ID=20221510

Rule Development:

The Department published a notice of rule development, and the Department will hold a rule development workshop 8/24/2018. The Department will publish a notice of proposed rules as soon as possible. Comments will be accepted for at least 21 days after the Department publishes the notice of proposed rules.

The Three-Member Panel met 4/10/2018 to review the fee schedules. Comments were accepted. The Three-Member Panel was scheduled to meet 7/6/2018 to review the fee schedule for hospital outpatient care, but the meeting has been cancelled. The meeting will be rescheduled.

Idaho

Medical Fee Schedules

Upcoming Action: Nothing Scheduled

Regulation ID: ID38628

Rule Summary:

The Commission is discussing amendments concerning the annual adjustment of the medical fee schedule for physician and hospital reimbursements. The Commission will determine the appropriate annual adjustments to the medical fee schedule.

Notice of Intent to Promulgate Rules- Negotiated Rulemaking (p. 71):

<https://adminrules.idaho.gov/bulletin/2018/06.pdf>

Rule Development:

The Commission will prepare draft rules. Once draft rules are complete, the Commission will publish proposed rules in the Idaho Administrative Bulletin and hold a public hearing and a comment period.

The Commission published notice of intent to promulgate rules. A public hearing was held 6/20/2018, and public comments were accepted until 6/27/2018.

Illinois

Registration of Workers' Compensation Utilization Review Organizations

Upcoming Action: Nothing Scheduled

Regulation ID: IL36779

Rule Summary:

The Department proposed amendments to its rules to expand the list of organizations that may be accepted as Utilization Review Organizations for the state's workers' compensation program. Specifically, the amendments recognize the Accreditation Association for Ambulatory Health Care (AAAHC) among the list of accreditors from which utilization organizations may receive accreditation and qualify for reduced registration and renewal fees.

Notice of Correction (pdf pg 199):

http://www.cyberdriveillinois.com/departments/index/register/volume42/register_volume42_issue5.pdf

Notice of Proposed Rule (pdf pg 58):

http://www.cyberdriveillinois.com/departments/index/register/volume41/register_volume41_issue51.pdf

Rule Development:

Staff will review the comments received and make any necessary revisions to the rule text. After the Department adopts the rules, they must be reviewed by JCAR, a legislative committee.

The Department published notice of the proposed rule change in the Illinois Register. The Department published a notice of correction to fix an error in the rule notice. Comments were still due 2/9/2018. No public hearing was scheduled.

Workers' Compensation Administrative Provisions

Upcoming Action: Nothing Scheduled

Regulation ID: IL36991

Rule Summary:

The Department is discussing amendments to several provisions of its workers' compensation program rules. Although there is no draft rule text available yet, the changes are likely to be administrative in nature, and will include: 1) relocating a misplaced 30-day requirement for rate and manual filing from subsection 2902.40(a)(1) to subsection 2902.50, the rate filing section; 2) removing a superfluous requirement for a narrative discussion of a company's reason to re-file corrected data about workers compensation insurance coverage after the company makes an erroneous or incomplete filing; and 3) making technical corrections to remove redundancies, outdated references, and generally superfluous language.

Notice of Discussion (pdf pgs 619-620):

http://www.cyberdriveillinois.com/departments/index/register/volume42/register_volume42_issue2.pdf

Rule Development:

The Department included the potential rulemakings on its 2018 regulatory agenda, indicating that it may publish proposed rules between January and March 2018. However, the draft rules are still under development, and this timeline is subject to change.

Indiana

Workers' Compensation Formulary

Upcoming Action: Nothing scheduled

Regulation ID: IN37786

Rule Summary:

The Workers' Compensation Commission is discussing the adoption of a workers' compensation formulary. On 3/25/2018, Governor Eric Holcomb (R) signed a bill (S.B. 369) that would adopt a formulary in the workers' compensation system, specifically, the Official of Disability Guidelines (ODG) worker's compensation formulary published by MCG Health. The bill does not request or direct the Commission to promulgate a rule related to the bill.

S.B. 369 (Enacted 2018):

<https://iga.in.gov/static-documents/4/7/1/b/471bfe59/SB0369.07.ENRH.pdf>

Rule Development:

Staff stated the Commission is meeting with representatives from MCG Health, and the Commission will determine whether any rulemaking will be needed before the bill goes into effect 1/1/2019. A timeline for further consideration has yet to be established.

Kansas

Workers Compensation 2019 Schedule of Medical Fees

Upcoming Action: Nothing scheduled

Regulation ID: KS39155

Rule Summary:

The Department has proposed updates to the 2019 Workers' Compensation medical fee schedule.

Notice of the proposed fee schedule: (pdf pg 754)

http://www.kssos.org/pubs/register/2018/Vol_37_No_29_July_19_2018_pages-749-764.pdf

A copy of the proposed changes:

http://statelink.stateside.com/Attachments/44297_KS2019ProposedMedicalFeeChanges.pdf

Rule Development:

Staff are internally reviewing any comments received. A new public hearing date will be announced at a later date.

The Department has released notice of the updated fee schedule for public review. A public hearing was scheduled 8/10/2018 to discuss the rule, but the hearing was cancelled. Comments were due 8/10/2018. Staff were contacted for a copy of the 2019 fee schedule, but did not have one available.

Electronic Filing System

Upcoming Action: Public hearing 10/9/2018; Comments due 10/9/2018

Regulation ID: KS39389

Rule Summary:

The Department has proposed amendments to the workers compensation rules. The amendments will add new requirements and update the rule addressing the electronic filing (e-filing) system. The new rule addresses the mandatory e-filing with the Division of workers compensation on and after 11/30/2018.

Notice of the proposed rule:

http://www.kssos.org/pubs/register/2018/Vol_37_No_31_August_2_2018_pages-791-808.pdf

Rule Development:

The Department has released notice of the proposed rule. Comments are due 10/9/2018. A public hearing is scheduled 10/9/2018.

Kentucky**Drug Formulary**

Upcoming Action: Committee Meeting TBA

Regulation ID: KY37971

Rule Summary:

The Department is discussing rules related to establishing a drug formulary within the workers' compensation program. H.B. 2 (2018) directs the Commissioner of the Department to establish a drug formulary for medications prescribed for the cure of and relief of the effects of a work injury or occupational diseases on or before 12/31/2018. In addition, the measure requires that evidence-based treatment guidelines for medical treatment [...] including but not limited to chronic pain management treatment and opioid use be developed on or before 12/31/2019.

Please note there is a parallel Regulatory Advisory Committee which will develop the process for

implementing the recommendations of the Medical Advisory Committee.

Draft rules have not yet been developed.

8/9/2018 Medical Advisory Committee Meeting Agenda:

<https://labor.ky.gov/comp/Documents/August%209%2c%202018%20Workers%27%20Compensation%20Medical%20Advisory%20Committee%20Meeting.pdf>

7/30/2018 Regulatory Advisory Committee Meeting Agenda:

http://statelink.stateside.com/Attachments/42601_ky_mac_meeting_agenda_7.30.docx

7/19/2018 Medical Advisory Committee Meeting:

http://statelink.stateside.com/Attachments/42601_Commonwealth_of_Kentucky_7.19.18.docx

7/9/2018 Regulatory Advisory Committee Minutes:

http://statelink.stateside.com/Attachments/42601_KY_July_9th_Minutes.pdf

7/9/2018 Regulatory Advisory Committee Agenda:

http://statelink.stateside.com/Attachments/42601_KY_July_9th_Agenda.pdf

5/31/2018 Medical Advisory Committee Minutes:

http://statelink.stateside.com/Attachments/42601_Minutes_of_5-31-18_MAC_Mtg.doc

5/31/2018 Medical Advisory Committee Agenda:

<https://s3-us-west-2.amazonaws.com/wcc-public-news-storage-4081/Kentucky.pdf>

H.B. 2 (2018):

<http://www.lrc.ky.gov/recorddocuments/bill/18RS/HB2/bill.pdf>

Rule Development:

The dates of the next MAC and RAC meetings have not yet been announced.

5/31/2018 MAC Meeting

The Workers' Compensation Medical Advisory Committee met 5/31/2018 and discussed the implementation of the formulary and development of the treatment guidelines. Commissioner Swisher clarified that the 12/31/2018 deadline includes having the regulations completed and not necessarily when the rules would be effective. Further, Commissioner Swisher provided resources to each member of the Committee, including the International Association of Industrial Accident Boards and Commissions' (IAIABC) "A Discussion on the Use of a Formulary in Workers' Compensation".

7/9/2018 RAC Meeting

Minutes from the Regulatory Advisory Committee's 7/9/2018 meeting were recently released. Judge Coleman reported that the Committee's formulary subgroup had reviewed formularies developed by Montana, Tennessee, and Texas. One member also indicated that the timeline to have the formulary finished is "very ambitious." Following a discussion of how the notification is obtained in other states, a member of the public noted that Texas has a more complex system for reporting employees making

verification of coverage easier than it currently is in Kentucky. The Committee also discussed possible limitations of a first fill regulation. A member indicated that the Committee may need to wait until the Medical Advisory Committee determines whether or not it will adopt ODG guidelines before deciding if an open or closed formulary will be adopted. A committee member indicated that may want to exclude some medications from the first fill list, noting the example of compound medications.

7/19/2018 RAC Meeting

The Medical Advisory Committee last met 7/19/2018 and heard a presentation from ACOEM regarding formulary guidelines and representatives from MD Guidelines. The Committee conducted a question and answer session with presenters.

7/30/2018 RAC Meeting

The Department's Regulatory Advisory Committee met 7/30/2018. The Committee held a work session and accepted public comment. Information is pending from staff regarding the outcome of the meeting.

8/9/2018 MAC Meeting

As previously reported, the Department's Medical Advisory Committee met 8/9/2018 to hear a presentation from Official Disability Guidelines regarding formulary guidelines. Individuals presenting include Ken Eichler, VP Government Affairs, and Rod Bordelon, Consultant to ODG/MCG Health.

Pharmacy Fee Schedule

Upcoming Action: Nothing Scheduled

Regulation ID: KY38897

Rule Summary:

The Department is considering revising the pharmacy fee schedule regarding reimbursement methodology.

7/31/2018 Meeting Notice:

[http://statelink.stateside.com/Attachments/43918_KY Pharmacy Fee Schedule.pdf](http://statelink.stateside.com/Attachments/43918_KY_Pharmacy_Fee_Schedule.pdf)

Rule Development:

The Department met 7/31/2018 to discuss the pharmacy fee schedule. Information is pending from staff regarding the outcome of the meeting. Comments were due 8/10/2018.

Amendments to the Workers' Compensation Medical Fee Schedule for Physicians

Upcoming Action: Comments Due 8/31/2018

Regulation ID: KY38949

Rule Summary:

The Department adopted emergency amendments and proposed permanent amendments to the workers' compensation medical fee schedule for physicians. The rule updates the fee computation to be

the Maximum Allowable Reimbursement (MAR) listed in the 2018 fee schedule for physicians for those procedures or items for which a specific amount is listed. For those without an MAR, the amount will be determined and calculated in accordance with numerical paragraph six of the General Instructions of the medical fee schedule generally.

Notice of Hearing Cancellation:

<https://labor.ky.gov/comp/Documents/Medical%20Fee%20Public%20Meeting%20Cancelled.pdf>

Notice of Extended Hearing and Comment Deadline:

http://statelink.stateside.com/Attachments/43987_LaborAmendmentHearing.pdf

Notice of Proposed Rule (pdf pg 162):

http://www.lrc.ky.gov/kar/contents/registers/45Ky_R_2018-19/01_Jul.pdf

Notice of Emergency Rule (pdf pg 19):

http://www.lrc.ky.gov/kar/contents/registers/45Ky_R_2018-19/01_Jul.pdf

Order form for 2018 Workers' Compensation Schedule of Fees for Physicians:

https://labor.ky.gov/Documents/Order_Form_for_Physicians_Fee_Schedule_2018.pdf

Memo for 2018 Workers' Compensation Schedule of Fees for Physicians:

<https://labor.ky.gov/Documents/Memo%20for%20Physician's%20Medical%20Fee%20Schedule%202018.pdf>

Rule Development:

The Department cancelled the hearing that was tentatively scheduled for 8/16/2018. All written comments are still due 8/31/2018.

The Department published notice of the emergency rule. The rule and the fee schedule are effective 7/1/2018. The Department published notice of the proposed rule. A public hearing was scheduled 7/26/2018. Comments were due 7/31/2018. The Department determined that it needed additional time to accept public comments and hearing requests. Staff have not made any changes to the text of rule since the original proposal in July 2018. The Department notified stakeholders via email that a public hearing was tentatively scheduled for 8/16/2018, however if no one submits a written hearing request by 8/9/2018, the Department may cancel it.

Louisiana

Medical Services Fee Schedule Changes

Upcoming Action: Nothing Scheduled

Regulation ID: LA38857

Rule Summary:

The information which is provided herein and links to other related web sites are offered as a courtesy to our clients. All material is intended for information, communication and educational purposes only and is in no manner an endorsement, recommendation or approval of any information. Coventry Workers' Comp Services accepts no liability for the consequences of any actions taken on the basis of the information provided.

The Commission's Workforce Advisory Council is discussing significant revisions to medical services fee schedule. According to staff, the Commission has not made major changes to the fee schedule in the past 20 to 25 years. Draft rules are not available.

4/23/2018 Workers' Compensation Research Institute Study:

<https://www.wcrinet.org/reports/compscope-benchmarks-for-louisiana-18th-edition>

2/22/2018 Workers' Compensation Advisory Council Meeting Minutes:

http://www.laworks.net/Downloads/OWC/MinutesAdvisoryCouncil_20180222.pdf

Rule Development:

As of June 2018, staff stated they are in the early phases of discussion and that a timeline for consideration has yet to be established. Staff stated the Executive Director has yet to determine whether to make incremental changes to the fee schedule or to do a complete overhaul of the fee schedule.

The Commission first discussed strategies for adopting a fee schedule in February 2018. A representative from Fair Health, an independent nonprofit that collects data for private health insurance claims, provided the Commission with information on FairHealth's work. The Commission also discussed the relationship between bundling conditions and medical treatment guidelines. Specifically, that Colorado has certain conditions in their guidelines.

It is worth noting that a study published in 4/23/2018 by the Workers' Compensation Research Institute (an independent, nonprofit research organization) concluded that, over the past six years, the costs per workers' compensation claim in Louisiana have grown at a rate of 4.4 percent annually. The total costs per claim were higher in Louisiana than any of the 17 other states included in the study.

Maine

Workers' Compensation Provider Regulations

Upcoming Action: Nothing scheduled

Regulation ID: ME38179

Rule Summary:

The Board has adopted amendments various workers' compensation regulations for providers related to billing procedures, reimbursement, as well as medical information being sent to employee's insurance company.

Revised Rule Text, As Adopted:

http://statelink.stateside.com/Attachments/42907_002_Adopted_Rules_with_Changes_6-15-18.docx

Form 220, As Adopted:

http://statelink.stateside.com/Attachments/42907_Form_220_6-15-18.docx

From 220-A, Psych. Release, As Adopted:

http://statelink.stateside.com/Attachments/42907_Form_220-A_Psych_Release_6-15-18.docx

Form 220-B, Subst. Abuse Release, As Adopted:

http://statelink.stateside.com/Attachments/42907_Form_220-B_Subst_Abuse_Release_6-15-18.docx

Form 220-C, HIV-STD Release, As Adopted:

http://statelink.stateside.com/Attachments/42907_Form_220-C_HIV-STD_Release_6-15-18.docx

Form 220-R, Revocation of Release, As Adopted:

http://statelink.stateside.com/Attachments/42907_Form_220-R_Revocation_of_Release_6-15-18.docx

Notice of Public Workshop:

<http://dir.nv.gov/uploadedFiles/dirnv.gov/content/WCS/HearingDocs/July%2012%20SIA.pdf>

Text of Proposed Rules:

https://www.maine.gov/wcb/Departments/legaldivision/05_draft_rules_4-9-18.pdf

Notice of Proposed Rule: (2018-P050-P064)

<http://www.maine.gov/sos/cec/rules/notices/2018/041818.html>

Rule Development:

The Board revised the rule text slightly in response to comments received. Staff provided copies of the final version of rules and the associated forms, as adopted. The amendments are now being reviewed by the Attorney General's office for form and legality. The AG must approve the rules by 10/15/2018, or the Board must begin the process again. The AG review is generally routine in nature, and staff expect the rules to be approved well before the 10/15 deadline, but they do not have a specific timeline. Once the AG approves the rules, they will be filed with the Secretary of State, become effective at least five days later, and be published as final in the Maine Register.

Notice of the rule was published in the Maine Register. A public hearing was held 5/8/2018. Comments were due 5/18/2018. The Board approved the amendments on 6/12/2018.

Michigan

Health Care Services

Upcoming Action: Public Hearing 8/24/2018, Comments Due 8/24/2018

Regulation ID: MI39401

Rule Summary:

The Department proposed amendments to rules related to health care services. The amendments are intended to provide updated health care fee schedules for reimbursement to providers for treatment of injured workers and to guide providers and payers on the scope of reimbursement. Specifically, the amendments add a definition of telemedicine and state only the procedure codes in Appendix P of the

CPT code book may be used, excluding CPT codes 99241-99245 and 99251-99255, among other stipulations. The amendments also remove language that stated the modifier code "GF" could only be used when a non-physician provides services "in an office or clinic setting or in a hospital," among other changes.

Notice of Proposed Rules (p. 124):

https://www.michigan.gov/documents/opt/MR14_081518_630117_7.pdf

Rule Development:

The Department published notice of the proposed rules. A public hearing will be held 8/24/2018, and comments will be accepted until 8/24/2018. The Department may adopt the rules. The adopted rules will be filed with the Legislative Service Bureau (LSB). After the rules are certified by the LSB, the rules will be sent to the Office of Regulatory Reinvention for certification. Following these two certifications, the rules will be forwarded to the Joint Committee on Administrative Rules (JCARR) for review. If JCARR does not disapprove the rules, they will be considered approved. The rules can then be filed with the Secretary of State's Office of the Great Seal. The rules will become effective seven days after filing with the Secretary of State.

Montana

Workers' Compensation Formulary

Upcoming Action: Committee Meeting 9/10/2018

Regulation ID: MT37576

Rule Summary:

The Department's Drug Formulary Committee has drafted rules implementing a workers' compensation formulary. The draft creates new rules related to definitions; the integration of the formulary with Montana Utilization and Treatment Guidelines; first fill procedures; expedited case review by the Department's medical director and a dispute resolution process.

The rules specify, with respect to prior authorization, that although insurers are obligated to pay for medications prescribed in a manner consistent with the formulary, the insurer must consider whether the medical provider has furnished sound medical reasoning for prescribing a medication that is not authorized under the formulary before the insurers denies authorization for that medication. Insurers may delegate prior authorization decisions regarding the formulary to a PBM or other agent with which it contracts. An insurer has the legal responsibility for the decisions made by the PBM on behalf of the insurer.

With respect to first fill requirements, prior authorization is not needed for first fill medications listed as "N" status on the formulary, provided that the medication is injury-appropriate for the injured worker at the time the worker seeks medical care

The rules are in response to SB 312 (2017), which authorized the Department to adopt a drug formulary as part of its utilization and treatment guidelines, along with a timely and responsive dispute resolution

process for disputes related to the formulary. The bill did not specify a timeline for promulgation.

Draft Rules (August 2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Working%20Draft%20Rules.pdf>

Drug Formulary Committee Agenda (7/16/2018):

http://statelink.stateside.com/Attachments/42015_MT_Agenda_w_Gantt_7-16-2018.pdf

Draft Rules (June 2018):

http://statelink.stateside.com/Attachments/42015_MT_drug_formulary_draft_rules.pdf

Drug Formulary Committee Minutes (6/19/2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Formulary%20Committee%20Meeting%206-19-18.pdf>

Drug Formulary Committee Agenda (6/19/2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Agenda%206%2019%202018.pdf?ver=2018-06-15-114450-490>

Drug Formulary Committee Minutes (5/2/2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Formulary%20Committee%20Meeting%205%202%202018.pdf>

Drug Formulary Committee Agenda (5/2/2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Agenda%205-2-2018.pdf>

Drug Formulary Committee Agenda (3/16/2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Agenda%203.16.18.pdf>

Labor-Management Advisory Council Drug Formulary Minutes (10/7/2017):

<http://erd.dli.mt.gov/Portals/54/Documents/LMAC/10-3-2017/LMAC%20Minutes%20October%203%202017.pdf>

S.B. 312 (2017):

<http://leg.mt.gov/bills/2017/sesslaws/ch0433.pdf>

Rule Development:

The Committee released revised draft rules in August 2018. The Committee is scheduled to meet 9/10/2018. An agenda for the meeting is not yet available. During the last meeting on 7/16/2018, the Committee did not finalize the draft rules. Per Mr. Wheeler, the Committee received feedback from stakeholders and is working on incorporating that feedback into the next iteration of the draft. The Committee expects to formally propose the rules beginning 9/30/2018.

According to staff, the Committee considered three formularies - ODG (Work Loss Data Institute), ACOEM (ReedGroup) and Washington L&I Outpatient Formulary (State of Washington) - for adoption. Based on the information provided by each of the representatives, the Committee recommended adoption of the ODG formulary to the Department's Labor-Management Advisory Council. The Council approved the Committee's recommendation during their 10/3/2018 meeting. The Committee established the following next steps:

- (1) Research into what other states have done, their lessons learned, and their overall experience with formulary implementation is currently in progress;
- (2) Review and update of U&T Guidelines currently in progress and
- (3) Determine first fill procedures, prior authorization process, dispute resolution process, legacy claims, adopting MED and potentially establishing a P&T Committee.

The Committee met 3/16/2018 and discussed first fill requirements, prior authorization requirements, dispute resolution and legacy claims. Items of discussion also included Colorado's potential formulary. Staff stated the rules are early in the development process. Staff are working with stakeholders representing pharmacy benefits managers, physicians, adjusters and others to ensure all stakeholders have ample time to contribute to the process.

Minutes from the 5/2/2018 meeting were recently released. The Committee discussed draft rules regarding prior authorization and first fill requirements and dispute resolution.

The Committee met 6/19/2018. Draft rules are now available. Per staff, the Committee finalized portions of the draft addressing: prior authorization (Rule IV), first fill requirements (Rule V) and expedited dispute review (Rule VII). Please note this is a working draft and additional revisions can be made.

Rates for Workers' Compensation Services

Upcoming Action: Nothing Scheduled

Regulation ID: MT37884

Rule Summary:

The Department adopted amendments to rules concerning rates for workers' compensation services. Specifically, the amendments would implement MCA 39-71-704, which requires the Department to annually establish a schedule of fees for medical services provided to injured workers.

Notice of Final Rules (PDF p. 44):

<http://sos.mt.gov/Portals/142/ARM/2018/MAR18-10.pdf?dt=1527269406147?>

Notice of Proposed Rules (PDF p. 10):

<http://sos.mt.gov/Portals/142/ARM/2018/MAR18-06.pdf?dt=1522957399818>

Rule Development:

The Department published notice of final rules. The effective date of the rules is 5/26/2018. The 2018 fee schedules and instruction sets apply to services provided on or after 7/1/2018.

The Department has published proposed rules. A public hearing will be held 4/20/2018, and public comments will be accepted until 4/27/2018.

New Jersey

Opioid Prescribing Rules for Optometrists

Upcoming Action: Nothing scheduled

Regulation ID: NJ34347

Rule Summary:

The Board adopted emergency amendments and subsequently, permanent amendments addressing opiate prescriptions written by optometrists. Specifically, the immensity establish new limitations on prescribing, dispensing, or administering controlled dangerous substances, and also create special requirements for management of acute and chronic pain.

Notice of the Final Rule:

http://statelink.stateside.com/Attachments/37428_49_NJR_1440_a_.pdf

Notice of Proposed Rule:

http://statelink.stateside.com/Attachments/37428_OPT.pdf

Rule Development:

Notice of the final rule was published in the New Jersey Register. The final rule is effective 6/5/2017.

The Board published notice of the emergency and proposed rules in the 3/20/2017 New Jersey Register. The emergency rule is effective 3/1/2017. Comments on the proposed rule were due 4/19/2017. No public hearing was held.

Source: New Jersey Register

New York

Drug Formulary

Upcoming Action: Nothing Scheduled

Regulation ID: NY34776

Rule Summary:

The Board proposed new rules to create a pharmacy prescription drug formulary. The rules define terms such as preferred and non-preferred drug, unlisted drug, compound drug, generic drug, and dispense, among others. The rules also set forth Prior Authorization (PA) and Utilization Review (UR) procedures for non-preferred or unlisted drugs and exempt certain "Special Fill drugs" or "Perioperative Fill drugs" from the regular PA procedures. As anticipated, a new rule section (441.5) includes a new

method by which requests to add pharmaceuticals to the preferred list are reviewed. Legislation enacted in April 2017 required the Board to create the formulary by 12/31/2017, among other changes.

Notice of Proposed Rule (pdf pg 50):

<https://docs.dos.ny.gov/info/register/2017/dec27/pdf/rulemaking.pdf>

Full Text of Drug Formulary:

<http://www.wcb.ny.gov/drug-formulary-regulation/DRAFT-MTG-Formulary.pdf>

Board Formulary Website:

<http://www.wcb.ny.gov/drug-formulary-regulation/>

Notice of Drug Formulary Requirement:

http://www.wcb.ny.gov/procurements/Formulary_MTG_LOI.pdf

Board Summary of Legislative Changes:

http://www.wcb.ny.gov/content/main/SubjectNos/sn046_936.jsp

Board Website:

<http://www.wcb.ny.gov/>

Rule Development:

Staff will review the comments received and make any necessary revisions to the rule text. The Board will publish notice of the final rules in the New York State Register.

Notice of the intent to create the formulary was published on the Board's website. The published notice of the proposed rules in the New York State Register. Written comments were due 2/25/2018.

Procedures Under Workers Compensation Law 21-a

Upcoming Action: Nothing Scheduled

Regulation ID: NY38173

Rule Summary:

The Board adopted amendments to its regulations to clarify filing requirements and correct errors in the rule citations. The affected provisions address the mandatory first report of injury filed electronically by the carrier, special fund, or TPA pursuant to the Workers' Compensation Law, an initial notice of controversy, notice that right to compensation is not controverted, but payment has not begun, and situations where the carrier, special fund, or TPA is unsure of the extent of its liability for a claim of compensation, and elects to make temporary payments of compensation or payment for prescribed medicine.

Notice of Final Rule (pg 24):

<https://docs.dos.ny.gov/info/register/2018/july25/rulemaking.pdf>

Notice of Proposed Rule (pdf pg 19):

<https://docs.dos.ny.gov/info/register/2018/may2/pdf/rulemaking.pdf>

Rule Development:

The Board adopted the rule, effective 7/25/2018, and published a final notice in the New York State Register.

The Board proposed amendments to the rule and published notice in the New York State Register. Written comments were due 7/1/2018.

Medical Fee Schedules

Upcoming Action: Nothing Scheduled

Regulation ID: NY38627

Rule Summary:

The Board proposed rule amendments to update the Medical Fee Schedule provisions. The amendments update the rule text to reference the 6/6/2018 "Official New York Workers' Compensation Medical Fee Schedule" published by OptumInsight, as well as the corresponding psychology, podiatry and chiropractic fee schedules.

Notice of Proposed Rules (pdf pg 13):

<https://docs.dos.ny.gov/info/register/2018/jun6/rulemaking.pdf>

Rule Development:

Staff must review comments received and prepare written responses. If the comments are generally favorable, this process may take a month or two. When the Board is ready to adopt the rules, it will vote to adopt the rulemaking during one of its regular public meetings. There is no Board meeting in August, so the earliest this could occur is 9/18/2018, but it might be delayed until the October or November meetings. Under New York law, the Board must adopt the rules within one year of proposing them (by June 2019), or it must begin the process again.

The Board published notice of the proposed rules in the New York State Register. Written comments were due 8/5/2018. The Board has not scheduled a public hearing, nor is it required to do so.

North Carolina

Ambulatory Surgery Center Fee Schedule

Upcoming Action: Nothing scheduled

Regulation ID: NC33888

Rule Summary:

The Commission adopted a temporary rule and permanent rule amendments to make revisions to the

workers' compensation medical fee schedule for services provided at ambulatory surgery centers (ASCs). The previous fee schedule, which provided for maximum reimbursement rate of 67.15% of billed charges, was invalidated by a court order. The temporary rule provides for reimbursement as a percentage of what CMS would pay, depending upon the setting and whether the services would qualify for reimbursement if CMS were paying.

Notice of final rule:

<http://www.ic.nc.gov/04NCAC10J0103.pdf>

and

<http://www.ic.nc.gov/11NCAC23J0103.pdf>

Notice of approved rule: (pdf pg 78)

<http://www.oah.state.nc.us/rules/register/Volume%2032%20Issue%2011%20December%201,%202017.pdf>

Notice of 10/19/2017 RRC review: (scroll to item IV)

<http://www.ncoah.com/rules/rrc/meetings/Agendas/October%202017/MeetingAgenda.html>

Notice of Proposed Rule (pdf p. 7):

<http://www.ncoah.com/rules/register/Volume%2031%20Issue%2024%20June%2015,%202017.pdf>

Notice of Temporary Rule (pdf p. 50):

<http://www.ncoah.com/rules/register/Volume%2031%20Issue%2014%20January%2017,%202017.pdf>

Rule Development:

Staff have confirmed that the legislature did nothing and this rule is considered effective as of 6/1/2018. The rule has not been published in the North Carolina Register and staff are unsure when that will occur and published a copy of the final rule on the Commission website. This entry is considered final.

The Commission published the temporary rule, effective 1/1/2017, in the North Carolina Register. The decision from the lower court invalidating the earlier rule was appealed to the North Carolina Court of Appeals. The Commission was awaiting that court's decision before taking action to make permanent rule changes. The Commission published notice of the proposed rule in the North Carolina Register. A public hearing was scheduled 7/19/2017. Comments were due 8/14/2017. The rules were approved by the Commission and were submitted to the Rules Review Commission (RRC) for review at the 10/19/2017 meeting. Staff confirmed that the RRC approved the rule at the 10/19/2017 meeting, however the rule received more than ten letters of objection, therefore this rule cannot be adopted until it undergoes Legislative Review. Notice of RRC approval was published in the North Carolina Register. The rule was pending legislative review. The General Assembly will convene in May 2018 for the regular session. If the Legislature does nothing, the rule will be considered approved.

Utilization of Opioids and Pain Management

Upcoming Action: Nothing scheduled

Regulation ID: NC36467

Rule Summary:

The Commission approved a new rule addressing utilization of opioids and pain management in workers' compensation claims. The rule includes the following rule sections: (1) utilization rules for opioid and other pharmacological pain; (2) utilization rules for opioid antagonists; (3) utilization rules for non-pharmacological treatment for pain; and (4) utilization rules for treatment for dependence on or addiction to a targeted controlled substance. The rule addresses the prescription of targeted controlled substances and the prescription of other modalities of pain management treatment for the outpatient treatment of non-cancer pain in claims where the employer is providing medical compensation. The Commission adopted the rule to address the opioid epidemic and workers' compensation claims.

Notice of final rule: (pdf pg 44)

<http://www.oah.state.nc.us/rules/register/Volume%2032%20Issue%2023%20June%201,%202018.pdf>

A copy of the approved rules:

<http://www.ic.nc.gov/10MRulesApproved.pdf>

Notice of the RRC meeting: (pdf pg 88)

<http://www.oah.state.nc.us/rules/register/Volume%2032%20Issue%2019%20April%202,%202018.pdf>

A copy of the RRC rule review:

<http://www.oah.state.nc.us/rules/rrc/meetings/Agendas/April%202018/Industrial%20Commission.pdf>

Notice of the proposed rule: (pdf pg 6)

<http://www.oah.state.nc.us/rules/register/Volume%2032%20Issue%2014%20January%2016,%202018.pdf>

A copy of the proposed rule:

<http://www.ic.nc.gov/121917proposedopioidrules.pdf>

A copy of the draft rule:

<http://www.ic.nc.gov/draftopioidutilizationrules1117.pdf>

Powerpoint presentation:

<http://www.ic.nc.gov/ExecSummaryPwrptdraftopioidrules1117.pdf>

Rule Development:

The rule is effective 5/1/2018. Notice was published in the June North Carolina Register.

The Commission released notice of the draft rule and a powerpoint presentation on the draft. Comments were due 12/6/2017. Staff internally reviewed the rule and comments received on the draft. Staff confirmed that the proposed rule was submitted for publication in the North Carolina Register. The rule was published in the 1/16/2018 register. The public hearing was held 3/2/2018 and comments were due 3/19/2018. Staff internally reviewed the rule and comments received. The rule went before the Rules Review Commission (RRC) for review at the 4/19/2018 meeting. Portions of the rule were amended based on comments received and the RRC has provided the rule document for

review prior to the meeting. The final effective date is subject to change based on the RRC review process. If the RRC received ten or more objections to the rule, it will be forwarded to the legislature for final approval and the effective date will change. Ten or more objections were not received. The RRC approved the rules including the requested technical amendments.

Ohio

Payment for Health and Behavior Assessment and Intervention Services

Upcoming Action: Nothing scheduled

Regulation ID: OH37912

Rule Summary:

The Bureau adopted a new rule to address health and behavior assessment and intervention services. The new rule addresses reimbursement for health and behavior assessment and intervention (HBAI) services. Previously, the HBAI services were within the provider and medical services fee schedule, however claims for these services were rare and physicians requested guidance on these services.

Notice of the final rule:

http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/processPublicDisplayRules.jsp?entered_rule_no=4123-6-33&doWhat=GETBYRULENUM&raID=0

Notice of the proposed rule:

http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/processPublicDisplayRules.jsp?entered_rule_no=4123-6-33&doWhat=GETBYRULENUM&raID=0

Notice of the 5/10/2018 public hearing:

http://www.registerofohio.state.oh.us/pdfs/phn/4123_NO_320158_20180403_1429.pdf

Rule Development:

The final rule was adopted and is effective 7/1/2018.

Staff released notice of the proposed rule. Comments were due 5/10/2018. A public hearing was held 5/10/2018. The rule was filed concurrently with the Joint Committee on Agency Rule Review (JCARR). Staff internally reviewed the rule. The rule went through JCARR review during its jurisdiction period. The JCARR review period ended without objection, notice of a final rule was pending publication in the Ohio Register.

Amendments to Outpatient Medication Formulary

Upcoming Action: Nothing Scheduled

Regulation ID: OH38170

Rule Summary:

The Bureau has drafted changes amending coverage of several drug classes listed within the drug formulary. Specifically, changes are as follows, effective 1/1/2019:

- (1) Medications to be removed from the formulary: Treximet and generic equivalents and relistor tablets and injections;
- (2) Medications to be added to the formulary: Symproic (an opioid-based constipation treatment) will be added to the BWC formulary appendix with specific limitations and
- (3) Medications with changes in coverage: Reimbursement for anxiolytic benzodiazepine medications (e.g. Valium, Ativan) (including clonazepam) will be limited to one product per month.

Draft Rule:

http://statelink.stateside.com/Attachments/42893_BWC_formulary_rules.pdf

Rule Development:

Staff are internally reviewing any comments received. Comments were due 5/18/2018.

The Bureau emailed specific stakeholders requesting comments on the changes. Stakeholders include: BWC's Managed Care Organizations; BWC's internal medical provider stakeholder list - 68 persons representing 56 medical provider associations/groups; BWC's Healthcare Quality Assurance Advisory Committee; Ohio Association for Justice; Council of Smaller Enterprises (COSE); Ohio Manufacturer's Association (OMA); National Federation of Independent Business (NFIB) and Ohio Chamber of Commerce.

Oregon**Document Standards**

Upcoming Action: Comments accepted until further notice

Regulation ID: OR37934

Rule Summary:

The Division is discussing a rule change related to documentation requirements. The Access to Justice Committee of the Workers' Compensation Section of the Oregon State Bar has asked the Division to adopt a rule that would require certain documents sent to injured workers, which are in English, be accompanied by a separate notice in multiple languages (Spanish, Russian, Vietnamese, and Chinese), advising workers of the importance of the document and where to turn for assistance. The Division intends this notice to be included with any document that contains a deadline and affects a substantial legal right, including but not necessarily limited to, claim denials, acceptances, closure notices; and orders from the Workers' Compensation Board or the Division.

Division Webpage:

<http://wcd.oregon.gov/Pages/index.aspx>

Rule Development:

As reported previously, the Advisory Committee is currently drafting rules.

The Division recruited members to join an advisory committee. The Advisory Committee recently met on 5/30/2018.

Review of Medical Fee & Payment, Medical Services, and Managed Care Organizations Rules

Upcoming Action: Final Date to Submit Additional Agenda Topics 8/31/2018; Meeting 11/13/2018; Meeting 11/19/2018

Regulation ID: OR39310

Rule Summary:

The Division is discussing possible amendments to Workers' Compensation Rules. Division staff intend to review and make changes to medical fee and payments rules, medical services rules, and managed care organization rules. The Division is interested in discussing telemedicine and how this is affecting the care of workers injured on the job, as well as the standards for independent medical exams. Division staff intend to develop a list of issues and potential rule amendments to discuss with a rulemaking advisory committee.

Possible Rule Issue Form:

https://wcd.oregon.gov/laws/Documents/5141_final_pdf_form.pdf

OAR 436-009, Oregon Medical Fee and Payment (Current Rules):

https://wcd.oregon.gov/Rules/div_009/9-18053.pdf

OAR 436-010, Medical Services (Current Rules):

https://wcd.oregon.gov/Rules/div_010/10-18054.pdf

OAR 436-015, Managed Care Organizations (Current Rules):

https://wcd.oregon.gov/Rules/div_015/15-18055.pdf

Rule Development:

Two meetings have been scheduled, one on 11/13/2018 (to discuss independent medical exams), and another on 11/19/2018 (to discuss telemedicine and general issues). Staff will accept recommendations for additional agenda topics until 8/31/2018. Interested parties are encouraged to fill out a "Possible Rule Issue" Form, which is available above.

Pennsylvania

Workers' Compensation Opioid Prescribing Guidelines

Upcoming Action: Nothing Scheduled

Regulation ID: PA39097

Rule Summary:

The Department of Health released opioid prescribing guidelines for workers' compensation. According to a press release issued by Governor Tom Wolf (D): "In 2017, there were more than 17,000 workers' compensation claims made in Pennsylvania, and our state ranks third highest in the nation in the percentage of injured workers who become long-term opioid users," Governor Wolf said. "These prescribing guidelines will help to ensure that health care providers who treat patients with work-related injuries have the guidance they need. I thank the members of the Prescribing Guidelines Task Force for all of their hard work in developing this essential guidance."

The guidelines make the following recommendation for different levels of pain:

(1) Treatment of Acute, Subacute, and Postoperative Pain

(a) When symptoms require more than more than acetaminophen and/or NSAIDS, adjunctive use of muscle relaxants such as cyclobenzaprine, baclofen, and tizanidine for strains and sprains may augment analgesic therapy

(b) Other non-opioid medication treatment options include gabapentin, pregabalin, and duloxetine. Non-opioid analgesic medications may provide pain relief even in the acute pain setting.

(c) The initial prescription of opioids should not exceed a 7-day supply.

(2) Treatment of Chronic Pain

(a) Opioids have a limited role in the treatment of chronic non-cancer pain and should be administered only in carefully selected patients within the construct of multi-modal pain therapy.

(b) Non-opioid pain treatment options to consider before prescribing opioids include acetaminophen, NSAIDS, corticosteroids, serotonin and norepinephrine reuptake inhibitors, tricyclic antidepressants, anticonvulsants, and muscle relaxants such as cyclobenzaprine, baclofen and tizanidine

(c) Risk of serious adverse events, including death, increase with higher doses of MEDD. MEDD above 90 mg/day has not been demonstrated to confer improvements in pain control, while doses above 90 mg/day MEDD are associated with significantly increased risk of harm.

Workers' Compensation Opioid Prescribing Guidelines:

http://statelink.stateside.com/Attachments/44215_pa_work_comp_opioid_guidelines.pdf

Governor Tom Wolf (D) Press Release:

<https://www.governor.pa.gov/wolf-administration-introduces-opioid-prescribing-guidelines-workers-compensation/>

Rule Development:

The Department published the guidelines on its website 7/16/2018. Guidelines such as these do not proceed through a formal rulemaking process. They are effective upon publication.

South Dakota

Workers Compensation Fee Schedules

Upcoming Action: Nothing Scheduled

Regulation ID: SD38078

Rule Summary:

The Division has adopted amendments that revise the workers' compensation fee schedule rules. Specifically, the amendments update factors and add new procedure codes.

Notice of Final Rules:

<http://sdlegislature.gov/docs/rules/Register/06112018.pdf>

Interim Rules Review Committee Meeting 6/4/2018:

<http://sdlegislature.gov/docs/Interim/2018/agendas/ARUL06042018.pdf>

Notice of Proposed Rules:

<http://sdlegislature.gov/docs/rules/Register/04232018.pdf>

Proposed Rules:

http://dlr.sd.gov/workers_compensation/documents/proposed_rules_04182018.pdf

Rule Development:

The Division published notice of final rules. The effective date of the rules is 6/25/2018.

The Division published notice of proposed rules. A public hearing was held 5/14/2018, and public comments were accepted until 5/19/2018. The Interim Rules Review Committee reviewed the rules at the 6/4/2018 meeting.

Texas

Physicians Assistants and Work Status Reports

Upcoming Action: Nothing scheduled

Regulation ID: TX37304

Rule Summary:

The Division is discussing amendments to rules to implement H.B. 2546 (2017). The amendments would allow physician assistants to sign work status reports when delegated the authority by a treating doctor.

Enacted H.B. 2546 (2017):

<http://www.legis.state.tx.us/tlodocs/85R/billtext/html/HB02546S.htm>

Division of Workers' Compensation Rulemaking - January 2018:

<https://www.tdi.texas.gov/wc/rules/documents/rulechart.pdf>

Rule Development:

As of July 2018, the Division has yet to publish draft rules for public review.

Designated Doctor Procedures and Requirements

Upcoming Action: Nothing Scheduled
Regulation ID: TX37306

Rule Summary:

The Division proposed a rule addressing designated doctor procedures and requirements. Specifically, the draft rule would update requirements for requesting a designated doctor (DD) exam, communicating the DD selection process, creating a maintenance log for tracking rescheduled DD appointments, limiting the amount of multiple certifications, and updating qualification, testing, and submission requirements.

According to the Division, "The amendments aim to simplify certain DD processes, retain and recruit doctors to continue to ensure the most optimally qualified doctor is selected for an examination, provide transparency, and allow for better monitoring of designated doctors."

Notice of Proposed Rule:

<https://www.sos.state.tx.us/texreg/archive/May182018/Proposed%20Rules/28.INSURANCE.html#40>

Memo from 5/18/2018 regarding the rules:

<http://www.tdi.texas.gov/wc/rules/proposedrules/documents/pr127dd0518m.pdf>

Link to draft rules:

<http://www.tdi.texas.gov/wc/rules/2018rules.html>

Division of Workers' Compensation Rulemaking - January 2018:

<https://www.tdi.texas.gov/wc/rules/documents/rulechart.pdf>

Informal Working Draft Rule Memo:

<http://www.tdi.texas.gov/wc/rules/documents/dr127dd0817m.pdf>

Informal Working Draft Rule:

<http://www.tdi.texas.gov/wc/rules/documents/dr127dd0817.pdf>

Rule Development:

Once approved, the rule will be published with an effective date.

The Division published the informal working draft rule 8/18/2017. Comments were due 9/1/2017. The Division reviewed any comments received. Notice of the rule was published in the Texas Register. Comments were due 6/18/2018.

Informed Consent

Upcoming Action: Nothing scheduled
Regulation ID: TX37817

Rule Summary:

The Panel has adopted amendments to rules which require the panel to determine which risks and hazards related to medical care must be disclosed to patients. The rule adds procedures and risks such as eye treatments, maternity and related cases, nervous system treatments as well as plastic surgery among other procedures.

Notice of Final Rule:

<https://www.sos.state.tx.us/texreg/archive/August172018/Adopted%20Rules/25.HEALTH%20SERVICES.html#70>

Notice of Proposed Rule:

<https://www.sos.state.tx.us/texreg/archive/March302018/Proposed%20Rules/25.HEALTH%20SERVICES.html#16>

Rule Development:

The final rule was published in the Register. The rule is effective 8/22/2018.

Notice of the rule was published in the Texas Register. Comments were due 4/29/2018.

Benefit Guidelines for Medical Services, Charges and Payments

Upcoming Action: Nothing scheduled

Regulation ID: TX38235

Rule Summary:

The Department has proposed a rules concerning return to work rehabilitation programs. The rules are related to work conditioning and work hardening services and reimbursement rates for those services.

Notice of Proposed Rule:

<https://www.sos.state.tx.us/texreg/archive/May42018/Proposed%20Rules/28.INSURANCE.html#84>

Rule Development:

Staff will review any comments received. Once approved, the rule will be published in the Register.

Notice for proposed rule was published in the Texas Register. Comments were due 6/4/2018.

Vermont**Revisions to Medical Fee Schedule**

Upcoming Action: Nothing Scheduled

Regulation ID: VT21018

Rule Summary:

The Vermont Department of Labor Workers' Compensation Program (Department) is discussing revisions to its Rule 40 - Medical Fee Schedule. The potential revisions would add dental services and outline provider reimbursement requirements.

Fee Schedule:

<http://labor.vermont.gov/workers-compensation/medical-fee-schedule/>

Workers' Compensation Rules:

<http://labor.vermont.gov/workers-compensation/workers-compensation-rules/>

Rule Development:

Staff previously confirmed that there have been no updates regarding the Workers' Compensation medical fee rule (Rule 40), and the Department has not yet produced rulemaking documents. Staff reported that when they do, notice will be posted on the Department website.

Staff reported 4/12/2012 that the medical fee schedule would be revised. Staff hoped to complete the rulemaking process during 2012. Staff reported 8/22/2012 that the Program anticipated starting the rulemaking process to update the existing schedule in September 2012. The Department submitted a draft of the rule for review by the Interagency Committee on Administrative Rules (Committee) 8/30/2012. After review by the Committee, the Department can file the rule with the Secretary of State for official publication as a proposed rule. Staff were unable to provide a timeline for formal rulemaking to commence. Staff reported that based on pre-rulemaking feedback and evidence that the rule being considered might dramatically increase workers' compensation premium rates, the initial proposal had been withdrawn. The Department continued discussing revisions to Rule 40.

Staff reported that there have been no updates regarding the Workers' Compensation medical fee rule (Rule 40). Staff reported that they expect to begin working on the rule in 2017, but could not provide a more definite timeline for publication.

When contacted for a further update in early fall, staff reported that, as previously reported, there have been no updates regarding the Workers' Compensation medical fee rule (Rule 40). Staff added that the Department has worked internally on the document but has not yet produced something for rulemaking. Staff reported that when they do, notice will be posted on the Department website.

Vermont Workers' Compensation and Occupational Disease Rules 1-27

Upcoming Action: Public Hearing 8/21/2018, Public Hearing 8/23/2018, Public Hearing 8/24/2018, Comments Due 8/31/2018

Regulation ID: VT39123

Rule Summary:

The Department proposed amendments to Vermont workers' compensation and occupational disease rules. The amendments update definitions as well as clarify that the timeframe for reporting a "first aid only" claim is five business days. The amendments also state that, once approved or ordered, a

preauthorization is valid for six months or until a change in the injured worker's medical conditions necessitates reevaluation of the request. Additionally, the amendments update the reference to the Vermont Department of Health's Rule Governing the Prescribing of Opioids for Pain, being followed at VT35220, among other changes.

Please note that, in the notice of proposed rule, the rule is incorrectly listed as adopted.

Notice of Proposed Rule:

http://statelink.stateside.com/Attachments/44255_18P038.prop.rule.pdf

Proposed Rules:

<http://labor.vermont.gov/wordpress/wp-content/uploads/WCRules1-27-Proposed.pdf>

Rule Development:

The Department published notice of the proposed rules. Public hearings will be held 8/21/2018, 8/23/2018, and 8/24/2018. Comments are due 8/31/2018. Following the close of the comment period, the Department may approve the proposed rules. The Department will file the final proposed rules with the Secretary of State and the Legislative Committee on Administrative Rules (LCAR). If LCAR does not object to the rules, the Agency may adopt the rules and file them with the Secretary of State 30 days after the rules are first placed on LCAR's agenda, or 45 days after filing the final proposed rules, whichever occurs first. The rules will become effective upon filing.

Virginia

Amendments to Electronic Medical Billing Rules

Upcoming Action: Nothing Scheduled

Regulation ID: VA31843

Rule Summary:

The Commission drafted rules related to the electronic medical billing rules. The amendments would establish standards and methods by which employers, workers' compensation insurance carriers, and providers of workers' compensation medical services adopt and implement infrastructure under which (i) providers of workers' compensation medical services shall submit their billing, claims, case management, health records, and all supporting documentation electronically to employers or employers' workers' compensation insurance carriers and (ii) payers shall return actual payment, claim status, and remittance information electronically to providers that submit their billing and required supporting documentation electronically.

Notice of Proposed Rules:

<http://register.dls.virginia.gov/details.aspx?id=6921>

Draft Proposed Rules:

<http://townhall.virginia.gov/L/ViewXML.cfm?textid=11754>

Notice of Intended Regulatory Action:

<http://register.dls.virginia.gov/details.aspx?id=5693>

Rule Development:

The Commission may adopt the draft final rules. Pending executive review, the final rules will be published in the Virginia Register.

Notice of the intended regulatory action was published in the Virginia Register. Comments were due 7/13/2016. A public hearing was not scheduled. Staff reviewed any comments received. The Commission drafted proposed rules. The Attorney's General, Department of Budget and Planning, and the Secretary of Independent Agencies completed their reviews.

The Governor reviewed and approved the draft proposed rules. The proposed rule was scheduled to be published in Virginia Register on 6/11/2018 and a comment period on the rules was scheduled to open 6/11/2018 and remain open through 8/10/2018.

The Commission published notice of the proposed rules. Comments were accepted until 8/10/2018. The Commission did not receive any comments.

Washington

Advisory Committee Meetings

Upcoming Action: Committee Meeting 10/26/2018

Regulation ID: WA22652

Rule Summary:

The Advisory Committee on Healthcare Innovation and Evaluation (Committee) (formerly known as the Network Advisory Group) meets periodically to provide the Department of Labor and Industry with input and advice related to the provider network. The Committee provides input on:

- Standards for accepting health care providers into the statewide network.
- Criteria for removing providers from the network and requiring peer review.
- Policies for managing the provider network.
- Expectations for providers who participate in the second tier of the network.

7/26/2018 Meeting agenda:

<http://www.lni.wa.gov/CLAIMSINS/PROVIDERS/PROJRESEARCHCOMM/PNAG/ACHIEV072618/180726FinalACHIEVagenda.pdf>

4/26/2018 Meeting agenda:

<http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/PNAG/ACHIEV042618/ACHIEVAgenda04262018.pdf>

10/26/2017 Meeting agenda:

<http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/PNAG/ACHIEV102617/ACHIEVAgenda102617FINAL.pdf>

4/27/2017 Meeting agenda:

<http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/PNAG/ACHIEV042717/ACHIEVAgenda042717.pdf>

Committee Meeting Dates and Agendas:

<http://www.lni.wa.gov/ClaimsIns/Providers/ProjResearchComm/PNAG/default.asp>

Rule Development:

The Commission is scheduled to meet 10/26/2018. An agenda for the meeting is not yet available.

The Committee met 4/27/2017. There were no relevant rulemaking discussions. The Committee met 10/26/2017 to discuss provider networks and other topics. The 1/25/2018 Committee meeting was cancelled. The Committee met 4/26/2018. No relevant rules were discussed. The Commission met 7/26/2018 and discussed issues related to telemedicine.

Amendments to Medical Aid Rules and Acupuncture

Upcoming Action: Comments Accepted

Regulation ID: WA35903

Rule Summary:

The Department is discussing rules concerning medical aid and acupuncture as being valid for workers' compensation purposes. The Department reviewed the best available scientific and clinical evidence related to the efficacy of acupuncture for treating low back pain. Due to this, the Department has decided to initiate a pilot that would help determine how acupuncture treatment could best be incorporated into the workers' compensation setting.

The pilot program will waive the denial of acupuncture services for those participating in the program. The pilot began 10/1/2017, and it will continue throughout a two-year period. The results of this program will be considered in developing proposed rule language, medical coverage decisions, and/or payment policies.

Notice of Discussion:

<http://lawfilesexternal.wa.gov/law/wsr/2017/18/17-18-076.htm>

Pilot Program Website:

<http://lni.wa.gov/ClaimsIns/Providers/TreatingPatients/ByCondition/Acupuncture/default.asp>

Rule Development:

The Department will accept comments on an ongoing basis. As noted above, the pilot program began 10/1/2017, and it will continue throughout a two-year period. The pilot program results will be considered in developing proposed rule language, medical coverage decisions, and/or payment policy.

The Department published notice of the discussion.

Hearing Aid

Upcoming Action: Nothing Scheduled

Regulation ID: WA37425

Rule Summary:

The Department is discussing amendments to rules concerning hearing aids. Specifically, the amendments would define when the Department or self-insurer is responsible for the replacement or repair of hearing aids damaged or lost due to an industrial accident and when they will replace or repair authorized hearing aids. The amendments would also stipulate that masking devices for accepted tinnitus are adjudicated using the same provisions as hearing aids due to hearing loss.

Notice of Discussion:

<http://lawfilesexet.leg.wa.gov/law/wsr/2018/04/18-04-102.htm>

Rule Development:

The Department published notice of discussion. Interested parties can participate in the rulemaking process prior to formal publication of proposed rules by contacting staff. The Department will prepare draft rules. Once the draft rules are complete, the Department will publish proposed rules and hold a public hearing and a comment period.

Wisconsin

Updated Treatment Guidelines

Upcoming Action: Nothing Scheduled

Regulation ID: WI37659

Rule Summary:

The Department is discussing amendments that would update workers' compensation treatment guidelines. The Department uses treatment guidelines to resolve the necessity of treatment disputes of employees with compensable workers' compensation injuries. The Department intends to clarify the description of guidelines, update the guidelines to include new modalities of treatment procedures and treatment options, and expand the guidelines to cover new types and classes of injuries.


Scope Statement:

https://docs.legis.wisconsin.gov/code/register/2018/747A3/register/ss/ss_026_18/ss_026_18

Rule Development:

The Department published a scope statement outlining the amendments. The Department and the Workers' Compensation Advisory Council (an entity that advises the Department on the development and administration of workers' compensation policy) will consult with the Health Care Provider Advisory

Committee prior to drafting the rule. If the Department decides to move forward with the rulemaking, the Department will prepare draft rules. Once draft rules are finalized, the Department will publish proposed rules and hold a public hearing and a comment period.

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