

Workers' Comp Regulatory Activity

September 15, 2018 – November 1, 2018

Alaska

AK Division of Insurance notice: Adoption of the 2017 National Council on Compensation Insurance, Inc. Workers' Compensation Prospective Loss Cost Filing

Upcoming Action: Nothing scheduled

Regulation ID: AK32203

Rule Summary:

The Division adopted the 2017 National Council on Compensation Insurance, Inc. (NCCI) workers' compensation prospective loss cost filing. The Division sought whether the filing should be approved, disapproved, or modified. The filing must meet the authorizing statute in order to be approved. A copy of the filing is only available to a member or subscriber to NCCI, and can only be obtained directly through NCCI.

Rule:

[http://statelink.stateside.com/Attachments/34483_R76-1\(1\).pdf](http://statelink.stateside.com/Attachments/34483_R76-1(1).pdf)

Notice of proposed adoption:

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=182205>

Rule Development:

Division Staff reported that insurers need to adhere to the rules and loss costs NCCI files on their behalf. See attached Order R76-1 (item #D especially) and Alaska Statute 21.39.070.

The Division published notice of the proposed adoption in the register. A public hearing was held 9/13/2016. Comments were due 9/23/2016.

Arizona

AZ Industrial Commission final rules effective 10/1/2018: 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

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(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.

Arizona

AZ Industrial Commission departmental discussion: 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.

2018-2019 Introduction:

<https://www.azica.gov/sites/default/files/media/2018-2019%20Fee%20Schedule%20Introduction.pdf>

2018-2019 Final RBRVS Fee Schedule:

<https://www.azica.gov/sites/default/files/media/2018-2019%20Fee%20Schedule%20by%20CategoryFinal.xlsx>

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:

A copy of the final fee schedule is now available. The fee schedule is effective 10/1/2018 - 9/30/2019. This entry is considered final

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.

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) conversation 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.

Arizona

AZ Industrial Commission departmental discussion: Physician Dispensing

Upcoming Action: Nothing Scheduled
Regulation ID: AZ39463

Rule Summary:

The Commission is discussing guidelines for medications dispensed in settings that are not accessible to the general public. The discussion is in response to SB 1111 (2018), which requires the Commission, on or before July 1, 2019, to review information and data, consult with stakeholders and hold at least one public hearing regarding the guidelines.

Physician Dispensing - Public Comments Received:
<https://www.azica.gov/physician-dispensing-public-comments>

Public Hearing Notice:
<https://www.azica.gov/sites/default/files/Notice%20of%20Public%20Hearing%208-23-2018%20Physician%20Dispensing.pdf>

SB 1111 (2018):
<https://www.azleg.gov/legtext/53leg/2R/laws/0101.pdf>

Rule Development:

The Commission is internally reviewing any comments received. The Commission held a public hearing 8/23/2018 to discuss the treatment guidelines. Action taken by the Commission will be proposed in the 2019/2020 Arizona Physicians' and Pharmaceutical Fee Schedule Staff Proposal and Recommendations document that will be posted on the Commission website in April 2019. Stakeholders may provide comment on the guidelines as part of the annual fee schedule hearing process.

Please note comments have been submitted by the following organizations: Arizona Self-Insurers Association, Concentra, CopperPoint, CorVel, Mitchell, Property Casualty Insurer's Association of America and Travelers.

California

CA Department of Industrial Relations, Division of Workers' Compensation proposed rule: Updates to the Workers' Compensation Rules addressing Home Health Care Fee Schedule

Upcoming Action: Nothing Scheduled
Regulation ID: CA22237

Rule Summary:

The Division has proposed amendments to the workers' compensation system. The Division proposed a new fee schedule which addresses Home Health Care. The fee schedule sets forth a payment methodology and fees for skilled care by licensed medical professionals and unskilled personal and chore services for injured workers in the home setting. The fee schedule is in response to SB 863 which was enacted in September 2012.

The modified amendments include new rates drawn from the federal Office of Workers' Compensation Programs fee schedule for home health care services and provides clarity to the rule language.

Notice of the proposed rule: (pdf pg 14)

<https://www.oal.ca.gov/wp-content/uploads/sites/28/2017/05/42z-2015.pdf>

RAND Study on Home Health Services Fee Schedule:

<http://www.dir.ca.gov/dwc/Reports/HomeHealthCareCAIW.pdf>

Notice of the 10/2/2012 public meeting is available at:

http://www.dir.ca.gov/dwc/dwc_newslines/2012/Newsline_41-12.html

A copy of SB 863 is available at:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0851-0900/sb_863_bill_20120919_chaptered.html

Rule Development:

Staff have confirmed that the rulemaking as proposed is no longer under consideration. The Division expects to release a re-proposed rule. The timeline is subject to change due to other priorities. The new rulemaking will be followed in this entry once published in the California Register.

Division established working groups to begin the discussion. A public meeting was held 10/2/2012 and several topics were discussed at different sessions throughout the day. Please note that the Division began working on several rulemakings in response to SB 863. Due to the varying timelines for these rulemakings, the rules described above were separated from CA22036. Originally, the fee schedule was expected to be effective 7/1/2013, but the schedule has been delayed. According to staff, the Division contracted with RAND to prepare an analysis of a Home Care Service Fee Schedule. The Division will begin working on adopting a Home Health Care fee schedule once the study is completed. Nothing was expected until 2015 due to other priorities. The Division posted the RAND study on Home health Services fee schedule. A public meeting was held 3/3/2015 to discuss the fee schedule. Staff internally reviewed the fee schedule and information discussed at the meeting. Staff announced a public comment period on the draft fee schedule. Comments were due 5/17/2015. Staff internally reviewed any comments received. Staff released notice of the proposed rule. A public hearing was held 11/30/2015 to discuss the rule. Comments were due 11/30/2015.

Staff internally reviewed the comments received. Staff released notice of the modified rule for a 15-day comment period. The amendments were necessary to clarify the rates and organize the rule language. Comments were due 6/8/2016. Staff internally reviewed the rule and any comments received.

California

CA Department of Industrial Relations final rule effective 1/1/2018: Evidence-Based Drug Formulary

Upcoming Action: Nothing scheduled

Regulation ID: CA29358

Rule Summary:

The Department adopted an evidence-based drug formulary rule for use in the workers' compensation system. The Medical Treatment Utilization Schedule – Formulary completes the following: (1) improve appropriate care through the dispensing of evidenced-based medicine; (2) expedite pharmaceutical treatment for ill and injured workers; (3) reduce delays, including the reducing the need for elevated utilization review and independent medical review; and (4) improve efficient delivery of medical benefits and reduce administrative costs. The rule is in response to, AB 1124, which directs the Department to establish an evidence-based drug formulary on or before 7/1/2017.

Notice of the final rule: (pdf pg 33)

<https://oal.ca.gov/wp-content/uploads/sites/28/2017/12/51z-2017.pdf>

Notice of the second 15-day comment period:

<http://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Formulary/2nd-15-Day-Comment-Period/Notice.pdf>

A copy of the 15-day comment period text:

<http://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Formulary/2nd-15-Day-Comment-Period/Text-Of-Regulations.pdf>

Notice of the 15-day comment period:

<http://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Formulary/1st-15-Day-Comment-Period/Notice.pdf>

Notice of the proposed rule:

<http://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Formulary/Notice.pdf>

A copy of the proposed rule text:

<http://www.dir.ca.gov/dwc/DWCPropRegs/MTUS-Formulary/Text-Of-Regulations.pdf>

Notice of the public forum closing 9/16/2016:

<http://www.dir.ca.gov/dwc/ForumDocs/Implementing-AB-1124-Drug-Formularyand-update-of-MTUS-Guideline/Implementing-AB-1124-Drug-Formularyand-update-of-MTUS-Guidelines.htm>

A copy of the draft text:

<http://www.dir.ca.gov/dwc/ForumDocs/Implementing-AB-1124-Drug-Formularyand-update-of-MTUS-Guideline/Text-of-Regulations.pdf>

A copy of an interim status report released July 2016:

<https://www.dir.ca.gov/dwc/MTUS/Reports/AB1124-InterimStatusReport-July2016.pdf>

A copy of the 2/17/2016 meeting agenda:

<http://www.dir.ca.gov/dwc/ForumDocs/Implementing-AB-1124-Drug-Formulary/Agenda.pdf>

Information on project overview:

<http://www.dir.ca.gov/dwc/ForumDocs/Implementing-AB-1124-Drug-Formulary/RAND-CA-WC-Formulary-Overview.pdf>

A copy of AB 1124:

<http://www.dir.ca.gov/dwc/ForumDocs/Implementing-AB-1124-Drug-Formulary/AB1124.pdf>

Notice of the public meeting:

<http://www.dir.ca.gov/DIRNews/2015/2015-78.pdf>

Rule Development:

The Office of Administrative Law (OAL) has approved the rule. The rule is effective 1/1/2018.

The Department held a public meeting 9/8/2015 to discuss the formulary development. Comments were accepted at the meeting. Staff internally reviewed the rule and any comments received. Staff held a meeting 2/17/2016 regarding the drug formulary. The meeting agenda is available above. As of July 2016, the Department released notice of a draft interim status report regarding the steps taken so far and the process moving forward for the formulary development. Staff were internally working on the formulary development and additional events were expected to be scheduled for later in 2016. Staff released notice of a draft rule for public review. The Department posted the draft text and guidelines on a public forum and accepted comments until 9/16/2016. Staff internally reviewed the rule and any comments received. Staff released notice of the proposed rule for public review. Comments were due 5/1/2017. A public hearing was held 5/1/2017 to discuss the proposal. Staff released notice of a modified rule for a 15-day comment period. Comments were due 8/2/2017 on the modifications only. Staff internally reviewed the rule and any comments received. Staff released notice of a second 15-day comment period on the rule. Comments were due 9/22/2017 on the modifications only. Staff internally reviewed any comments received. Staff completed the final rule package and filed the rule with the OAL for review. A decision from OAL was expected by mid-December 2017.

California

CA Division of Workers' Compensation emergency rule effective 7/6/2017, 10/5/2017, and final rule effective 2/7/2018: Amendments to Medical Provider Suspension Procedure

Upcoming Action: Nothing scheduled

Regulation ID: CA35088

Rule Summary:

The Division re-adopted an emergency rule and adopted permanent rules governing medical provider suspension procedures. The regulations implement suspension hearing and related procedures for medical providers that meet specific criteria. The amendments update the following sections: (1) Section 9788.1. Notice of Provider Suspension; (2) Section 9788.2. Provider Request for Hearing; (3) Section 9788.3. Suspension Hearing; (4) Section 9788.4. Suspension Notification; and (5) Amendment of the Order of Suspension or Determination and Order re: Suspension. The rules are necessary to implement the requirement of creating a suspension process for medical providers: (1) found to have been convicted of any felony or misdemeanor involving fraud or abuse of the Medi-Cal program, Medicare program, or workers' compensation system; (2) who have had their license, certificate, or approval to provide health care surrendered or revoked; or (3) who have been suspended, due to fraud or abuse, from participation in the Medicare or Medicaid programs.

Notice of OAL approval: (pdf pg 23)

<https://oal.ca.gov/wp-content/uploads/sites/28/2018/02/7z-2018.pdf>

Notice of the proposed rule (pdf pg 9):

<https://oal.ca.gov/wp-content/uploads/sites/28/2017/10/43z-2017.pdf>

Notice of the re-adopted emergency rule (pdf pg 35):

<http://oal.ca.gov/wp-content/uploads/sites/28/2017/10/41z-2017.pdf>

Notice of emergency rule (pdf pg 26):

<http://oal.ca.gov/wp-content/uploads/sites/28/2017/07/28z-2017.pdf>

Rule Development:

OAL has approved the final rule. The rule is effective 2/7/2018.

The Division published notice of the emergency rule in the register. The rule is effective 7/6/2017. Staff re-adopted the emergency rule. The emergency rule re-adoption is effective 10/5/2017. Staff were working internally on a permanent rule adoption. The emergency rule is effective for 180 days. Staff have proposed the permanent rule amendments. The proposal will make the emergency rule permanent. Comments were due 12/11/2017. A public hearing was held 12/11/2017. Staff internally reviewed the rule and any comments received. Staff completed the final rulemaking package and filed the rule with the Office of Administrative Law (OAL). A decision from OAL was expected in late February 2018.

California

CA Division of Workers' Compensation proposed rule: 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/DWCPPropRegs/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.

California

CA Department of Industrial Relations departmental discussion: Pharmacy and Therapeutics (P&T) Advisory Committee

Upcoming Action: Nothing Scheduled

Regulation ID: CA39061

Rule Summary:

The Division has formed a Pharmacy and Therapeutics (P&T) Committee, pursuant to A.B. 1124 (2015), as an advisory committee that will consult with the DWC Administrative Director on updates to the Medical Treatment Utilization Schedule (MTUS) Drug Formulary. The P&T Committee is chaired by DWC Executive Medical Director Raymond Meister, M.D. Each of the six appointees are California-licensed medical doctors and pharmacists.

Each member of the P&T Committee will serve a term of two years. The current committee members are:

- (1) Lori A. Reisner, Pharm.D.
- (2) Todd Shinohara, Pharm.D.
- (3) Raymond Tan, Pharm.D.
- (4) Basil R. Besh, M.D.
- (5) Rajiv P. Das, M.D.
- (6) Steven Feinberg, M.D.

MTUS Drug List v3:

<https://www.dir.ca.gov/dwc/MTUS/MTUS-Documents/Drug-List/October/DRUG-LIST-V3-Addendum-One.pdf>

Draft Proposal - Addition of RxCUI to Drug List v3:

<https://www.dir.ca.gov/dwc/MTUS/MTUS-Drug-List-v3-RxCUI.pdf>

Discussion of MTUS Drug List and Structure: Unique Pharmaceutical Identifiers:

<https://www.dir.ca.gov/dwc/MTUS/Pharmacy-and-Therapeutics-Committee-Presentations/Presentation-Pharm.pdf>

Therapeutic Equivalent, Pharmaceutical Alternatives and Cost Considerations:

<https://www.dir.ca.gov/dwc/MTUS/Pharmacy-and-Therapeutics-Committee-Presentations/Presentation-Tan-Pharm.pdf>

9/26/2018 Committee Meeting Agenda:

<https://www.dir.ca.gov/dwc/MTUS/Meeting-Agenda-Sept2018.pdf>

9/26/2018 Committee Meeting Notice:

<https://www.dir.ca.gov/DIRNews/2018/2018-56.pdf>

MTUS Drug Formulary Informational Website:

<https://www.dir.ca.gov/dwc/MTUS/MTUS-Formulary.html>

A.B. 1124 (2015):

<https://www.dir.ca.gov/dwc/ForumDocs/Implementing-AB-1124-Drug-Formulary/AB1124.pdf>

Rule Development:

The Department's P&T Committee held their first meeting 9/26/2018. During the meeting, members discussed how product identifiers could assist payers determine which medications are exempt from prospective utilization review. The Committee discussed how drugs deemed safe and for acute injuries - or exempt drugs - can be dispensed without utilization review; provided, they are for acute-related work injuries and dispensed with the recommendations of the Medical Treatment Utilization Schedule (MTUS). Non-exempt drugs are those for chronic work-related injuries (and compounded pharmaceuticals) and are thus not exempt from utilization review.

A consultant for the Department, Kevin Gorospe, stated that although these distinctions in the MTUS are valuable, areas for possible reform include utilization of a unique product identifier - or RxCUI. Mr. Gorospe provided the Committee with a proposal in support of RxCUI codes. Specifically, Mr. Gorospe identified the following as potential benefits: the codes are non-proprietary; the same code for a drug applies to all equivalent generic drugs, RxCUI codes would mitigate the need to revise the workers' compensation formulary when new drugs are released and it help payers identify a drug regardless of the NDC code.

The Committee deferred action on the proposal, but will likely continue discussing at their next meeting. Other members of the Committee suggested that the Department consider creating special-fill exemptions for a certain drugs. Members cited that there have been cases when a healthcare provider has prescribed exempt drugs following the MTUS treatment guidelines, but were later denied during utilization review.

Please note Representatives from the California Orthopaedic Association, the California Neurology Society, and the California Workers' Compensation Services Association were present at the meeting.

An agenda for the meeting was recently released. As previously reported, the Division's P&T Committee will meet 9/26/2018. The meeting will include an overview of the MTUS formulary, the MTUS drug list structure and content, including unique pharmaceutical identifiers, therapeutic equivalents, pharmaceutical alternatives and cost considerations. Public comment will be accepted. The public may submit questions or comments about the formulary to the MTUS Drug Formulary email inbox: formulary@dir.ca.gov.

California

CA Division of Workers' Compensation draft rule: Pharmaceutical Fee Schedule Regulations

Upcoming Action: Comments Due 10/8/2018

Regulation ID: CA39798

Rule Summary:

The Division has drafted regulations that would align the workers' compensation pharmacy fee schedule with the new Medi-Cal pharmacy fee schedule. Specifically, this includes the following changes: elimination of the Average Wholesale Price (AWP) minus 17 percent as a benchmark for the drug ingredient; revised methodology for payment of drug ingredients to align with the new Medi-Cal system and adopts a bifurcated Medi-Cal dispensing fee structure for pharmacies (which increases the dispensing fee from \$7.25 to \$10.05 or to \$13.20 for pharmacies listed as Medi-Cal); and addresses fees for compounded drugs and repackaged drugs.

With regards to physician dispensing of compounded drugs, the maximum reasonable fees will be lower of:

- (1) 300 percent of document paid costs for the drug ingredients; or
- (2) Documented paid costs plus \$20; or
- (3) The drug ingredient cost and compounding fees, if applicable.

Background Information and Overview:

<https://www.dir.ca.gov/dwc/ForumDocs/Pharmaceutical-Fee-Schedule/Background-and-Overview.pdf>

Pharmacy Fee Schedule Forum:

<https://www.dir.ca.gov/dwc/DWCWCABForum/Pharmaceutical-Fee-Schedule.htm>

Draft Rule:

<https://www.dir.ca.gov/dwc/ForumDocs/Pharmaceutical-Fee-Schedule/Text-Of-RegulationI.pdf>

Rule Development:

The Division has opened a public comment period related to the changes. Comments are due 10/8/2018. It is worth noting unlike the Medi-Cal fee schedule, which applies retroactively to claims on

or after 4/1/2017, the workers' compensation changes would become effective for pharmaceuticals dispensed on or after 1/1/2019.

Colorado

CO Division of Workers' Compensation final rules effective 1/1/2018: Utilization Standards and Medical Fee Schedule

Upcoming Action: Nothing Scheduled

Regulation ID: CO35285

Rule Summary:

The Division adopted rules concerning utilization standards and the medical fee schedule. Specifically, the rules add definitions and renumbers items for utilization standards. Additionally, the rules amend the fee schedule relative to opioid management, classifications of substances, payment for telehealth services as well as durable medical equipment items.

Notice of Final Rules:

<http://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2017-00252>

Notice of AGO Approval:

<http://www.sos.state.co.us/CCR/Opinion.do?forview=true&trackingNum=2017-00252>

Notice of Proposed Rules:

<http://www.sos.state.co.us/CCR/DisplayHearingDetails.do?trackingNumber=2017-00252>

Rule Development:

Official notice of the final rules was published in the 9/25/2017 Colorado Register with a 1/1/2018 effective date.

Notice of the proposed rules was published in the Colorado Register. A public hearing was scheduled for 8/1/2017. Comments were due 8/1/2017. The Division adopted the rules and forwarded them to the Attorney General's Office (AGO) for review and approval. The AGO approved the rules 9/8/2017.

Colorado

CO Division of Workers' Compensation final rules effective 11/30/2017 and 1/1/2018: Physician Accreditation and Treatment Guidelines

Upcoming Action: Nothing Scheduled

Regulation ID: CO35550

Rule Summary:

The Division adopted amendments to its rules to address several issues. Amendments to Rule 13 - Physician Accreditation, substantially revise the requirements for providers to obtain "Level I

Accreditation," add requirements to obtain the newly created "Level II Accreditation," update renewal requirements, and make other changes. Other amendments update Exhibit 7 of the medical treatment guidelines for Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy. Finally, the third set of amendments updates Exhibit 9 of the medical treatment guidelines, for chronic pain disorder.

Notice of the Final Accreditation Rule (Rule 13):

<https://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2017-00335>

Text of the Final Accreditation Rule (Rule 13):

<https://www.sos.state.co.us/CCR/Upload/AGORequest/AdoptedRules02017-00335.doc>

Notice of the Final Medical Treatment Guidelines Rules (Rule 17):

<https://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2017-00336>

<https://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2017-00337>

Text of Final Medical Treatment Guidelines Rules (Rule 17):

<https://www.sos.state.co.us/CCR/Upload/AGORequest/AdoptedRules02017-00336.doc>

<https://www.sos.state.co.us/CCR/Upload/AGORequest/AdoptedRules02017-00337.doc>

Notice of Final Accreditation Rule (Rule 13):

<https://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2017-00335>

Text of Final Accreditation Rule (Rule 13):

https://www.colorado.gov/pacific/sites/default/files/Rule_13_Accreditation_of_Physicians-v.5-clean.pdf

First Set of Proposed Rules:

<http://www.sos.state.co.us/CCR/DisplayHearingDetails.do?trackingNumber=2017-00335>

Second Set of Proposed Rules:

<http://www.sos.state.co.us/CCR/DisplayHearingDetails.do?trackingNumber=2017-00336>

Third Set of Proposed Rules:

<http://www.sos.state.co.us/CCR/DisplayHearingDetails.do?trackingNumber=2017-00337>

Rule Development:

The Division adopted the Medical Treatments Guidelines Rules (Rule 17), as well as the Accreditation Rule (Rule 13). Both were approved by the Attorney General's Office. Rule 17 is effective 11/30/2017. Rule 13 is effective on 1/1/2018.

The Division published notice of the proposed rules in the Colorado Register. A public hearing was scheduled for 9/13/2017. Comments were due the same day. The Division adopted the accreditation rule (Rule 13), and it was approved by the Attorney General's Office, effective 1/1/2018.

Colorado

CO Division of Professions and Occupations guidance effective 3/16/2018: 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/1uxplVmqu59heCv_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.

Colorado

CO Division of Workers' Compensation final rule effective 1/1/2019: Rules of Procedure With Treatment Guidelines

Upcoming Action: Nothing Scheduled
Regulation ID: CO37802

Rule Summary:

The Division adopted 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 rule and the changes impact all aspects of DIME procedures.

Final Rule Language:

https://www.colorado.gov/pacific/sites/default/files/Rule_11_Division_Independent_Medical_Examination_2019_Adopted.pdf

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 adopted final rules, which were published on the Division's webpage. The final rules are effective 1/1/2019. Notice of the final rules is pending publication in the State Register.

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.

Florida

FL Department of Financial Services proposed rules: 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.

Florida

FL Department of Financial Services final rules effective 1/18/2018: Rules Concerning Materials for Use with Chapter 69L-7, Workers' Compensation Medical Reimbursement and Utilization Review

Upcoming Action: Nothing Scheduled

Regulation ID: FL34574

Rule Summary:

The Department adopted amendments rules concerning materials incorporated by reference for use with rules in Chapter 69L-7, Workers' Compensation Medical Reimbursement and Utilization Review. The rules identify the resources for use with reimbursement manuals and rules. The amendments identify updated resources.

Final Rules:

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=69I-8>

Notice of Change:

https://www.flrules.org/gateway/notice_Files.asp?ID=19750963

Notice of Public Hearing:

https://www.flrules.org/gateway/notice_Files.asp?ID=19390220

Notice of Proposed Rules:

https://www.flrules.org/gateway/notice_Files.asp?ID=19308061

Notice of Rule Development:

https://www.flrules.org/gateway/notice_Files.asp?ID=18858660

Rule Development:

The Department filed the rules for adoption is 12/29/2017. The effective date of the rules is 1/18/2018.

The Department published a notice of rule development and a notice of proposed rules. The Department cancelled the public hearing scheduled for 9/8/2017. The Department held a public hearing 10/4/2017 and accepted comments until the end of the public hearing. The Department revised

the rules.

Illinois

IL Department of Insurance proposed rule: 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 (AAHHC) 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.

Illinois

IL Department of Insurance departmental discussion: 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.

Illinois

IL Department of Insurance departmental discussion: Amendments to Registration of Workers' Compensation Utilization Review Organizations

Upcoming Action: Nothing scheduled

Regulation ID: IL38985

Rule Summary:

The Department is discussing possible amendments to the registration of workers' compensation utilization review organizations. Specifically, Exhibit B is the Utilization Review Organization Officers and Directors Biographical Affidavit, in which the requirements are also contained in the current NAIC Biographical Affidavit. Therefore, the amendments will not the use of the current NAIC Biographical Affidavit and remove the reference to Exhibit B. Some housekeeping changes will also occur.

Notice of discussion (pdf pg 950):

https://www.cyberdriveillinois.com/departments/index/register/volume42/register_volume42_issue27.pdf

Rule Development:

The Department published notice of the discussion in the register. Staff anticipated publishing a proposed rule in Summer 2018, but that timeline has been delayed.

Indiana

IN Workers' Compensation Board departmental discussion: 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.

ODG Formulary - Appendix A:

<https://www.odgbymcg.com/state-formulary>

9/17/2018 Formulary Treatment Guidelines

http://statelink.stateside.com/Attachments/42317_Formulary_Guidelines_8.14.2018.pdf

9/17/2018 ODG Formulary Seminar Notice:

<https://www.eventbrite.com/e/odg-formulary-seminar-tickets-49041711078>

S.B. 369 (Enacted 2018):

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

http://statelink.stateside.com/Attachments/42317_FORMULARY_FLOWCHART.pdf

Rule Development:

Meeting materials from the 9/17/2018 seminar were recently released. Staff provided a copy of the treatment guidelines and a flow chart illustrating the workers' compensation formulary process. Per staff, the Board has adopted Appendix A of the ODG formulary. They are currently in the process of developing the treatment guidelines for physicians. As previously reported, further meeting dates have yet to be determined.

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.

Iowa**IA Division of Workers' Compensation proposed rule: Electronic Filings**

Upcoming Action: Comments due 9/18/2018

Regulation ID: IA39591

Rule Summary:

The Division has proposed amendments to the workers' compensation rules. The amendments will update forms, dispute procedures and electronic data interchange (EDI) among other amendments. The changes to the rules impacting electronic data will add a new rule addressing the use of the workers' compensation electronic system (WCES) for submission of filings and new language to address the rules of electronic procedure.

Notice of the proposed rule:

<https://www.legis.iowa.gov/docs/aco/arc/3968C.pdf>

Rule Development:

The Division has released notice of the proposed rule for review. Comments are due 9/18/2018. A public hearing has not been scheduled, but interested parties may request a hearing.

Kansas

KS Department of Labor, Division of Workers Compensation proposed rule: 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

KY Department of Workers' Claims, Workers' Compensation Board departmental discussion: Drug Formulary

Upcoming Action: RAC Committee Meeting 10/31/2018

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 (RAC) which will develop the process for implementing the recommendations of the Medical Advisory Committee (MAC).

10/3/2018 RAC Meeting Minutes:

<https://labor.ky.gov/Documents/RAC%20Meeting%20Minutes%2010-3-2018.pdf>

10/3/2018 RAC Meeting Agenda:

http://statelink.stateside.com/Attachments/42601_Kentucky_Labor_Cabinet_RAC_Meeting_10.3.2018.docx

9/27/2018 MAC Meeting Minutes:

<https://labor.ky.gov/Documents/MAC%20Meeting%20Minutes%209-27-18.pdf>

9/27/2018 MAC Meeting Agenda:

http://statelink.stateside.com/Attachments/42601_KY_MAC_Meeting_Sept_2018.docx

8/30/2018 Joint MAC-RAC Meeting Minutes:

<https://labor.ky.gov/Documents/Minutes%20of%20JOINT%208-30-18%20RAC-MAC%20Mtg.pdf>

8/30/2018 RAC and MAC Joint Meeting Agenda:

http://statelink.stateside.com/Attachments/42601_joint_meeting_agenda_8.30.2018.pdf

H.B. 2 (2018):

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

Rule Development:

Minutes from the 10/3/2018 RAC meeting were recently released. During the meeting, discussion began with the Commissioner's initial preference for a seven-day supply of "first fill" medication. A committee member questioned why the fill was seven instead of three days. The Commissioner assured members the regulations would be written in conformity with the other guidelines that govern medical practitioners' license and dispensing practices. In regards to payment liability, the initial thought was the carrier would be responsible for payment of these medications; however, after further discussion, it was suggested the language reflect the medical payment obligor be responsible for the payment of the medications. A committee member suggested that the "first fill" be tied to a first report of injury. A committee member also reviewed the proposed effective dates of the formulary – July 1, 2019, for claims of injury on and after that date, and for new prescriptions for injuries that occurred prior to that date; and January 1, 2020, for refills of medications prescribed prior to January 1, 2019 (with certain conditions). The Commissioner explained the rationale for the dates chosen. A committee member suggested that the employer and carrier notify the physicians and PBMs of the formulary.

The RAC is scheduled to meet 10/31/2018. An agenda for the meeting is not yet available.

8/30/2018 Joint RAC/MAC Meeting

During the meeting, Dr. Robert Synder, the Medical Director for the Tennessee Bureau of Workers' Compensation, provided an overview of the decisions considered during the development of Tennessee's guidelines. Further, Dr. Snyder provided an overview of how six other states - California, Colorado, Montana, New York, Ohio and Washington - have approached the adoption of treatment guidelines.

9/27/2018 MAC Meeting

During the meeting, Commissioner Swisher stated that he will make a recommendation to the Secretary of Labor to establish a standing Medical Advisory Committee that will meet three to four times a year. The purpose of the standing committee will be to review the formulary guidelines (once final) and their implementation. The RAC is also developing a system to expedite the reconsideration process when denials are made. He expects that conferences on a peer-to-peer basis will be required within a short period following a request for reconsideration.

Kentucky**KY Department of Workers Claims departmental discussion: 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

Rule Development:

The Department met 7/31/2018 to discuss the pharmacy fee schedule. The Department is internally reviewing any comments received. A draft of the fee schedule is not yet available. Comments were due 8/10/2018.

According to Commissioner Swisher, the Department hopes to have a draft of a pharmacy fee schedule complete by January 2019. Commissioner Swisher noted that although discussions will continue on the pharmacy fee schedule between now and January 2019, the Department's focus will be on the drug formulary regulations (currently monitored KY37971).

Kentucky**KY Workers Compensation Funding Commission adopted rules: Special Fund Assessments, Payment of Audit Expenses**

Upcoming Action: ARRS Meeting 10/9/2018

Regulation ID: KY39483

Rule Summary:

The Commission adopted amendments to one of its rules regarding special fund assessments and repeal another rule regarding payment of audit expenses. Recent legislation (HB388) modified the manner in which the Commission is to treat expense payments. The Commission conducts periodic audits of all

entities subject to the special fund assessments charged to insurers in the workers' compensation sphere. These rules identify audit expenses and provide procedures for collection of assessments and expenses, and define penalty and interest procedures.

10/9/2018 ARRS Meeting Agenda (page 3):

<http://www.lrc.ky.gov/CommitteeMeetingDocuments/3/11486/October%202018%20Agenda%20-%20Tentative.pdf>

Official Notices of Proposed Rule and Proposed Repeal (pages 774 and 873):

http://www.lrc.ky.gov/kar/contents/registers/45Ky_R_2018-19/03_Sept.pdf

Advance Notice of Proposed Amendment to 803 KAR 30:010:

http://statelink.stateside.com/Attachments/44759_803_KAR_30_010.pdf

Advance Notice of Proposed Repeal of 803 KAR 30:020:

http://statelink.stateside.com/Attachments/44759_803_KAR_30_020.pdf

Rule Development:

The Department adopted the rules and submitted them to the Administrative Regulation Review Subcommittee (ARRS) for review.

ARRS is tentatively scheduled to review the rules during its 10/9/2018 meeting.

The Commission released advance notice of the rule proposal. The Commission published official notice of the proposed rule in the September 2018 Kentucky Register. The Commission tentatively scheduled a public hearing for 9/27/2018, but if staff did not receive a written hearing request by 9/20/2018, the Commission could cancel the hearing. All written comments were due 9/30/2018.

Louisiana

LA Department of Labor, Workers' Compensation Commission draft rule: Chronic Pain Disorder Medical Treatment Guidelines

Upcoming Action: Comments Accepted on Ongoing Basis

Regulation ID: LA39713

Rule Summary:

The Commission has drafted amendments to the chronic pain disorder medical treatment guidelines. The guidelines specify how opioids should be used in the treatment of chronic pain and how specific chronic pain conditions should be treated, regardless of whether opioids are used. With respect to opioids, when considering opioid use for moderate to moderately severe chronic pain, a trial of opioids must be accomplished and the patient must have failed other chronic pain management regimes. Physicians should complete the education recommended by the FDA, risk evaluation and mitigation strategies (REMS) provided by drug manufacturing companies

Notably, the amendments establish the specific injections which are to be considered reasonable treatment for patients with chronic pain when therapy is continuing and specific indications are met. This includes epidural steroid injections and sacroiliac joint injection, amongst others. For epidural steroid injections, this may include caudal, transforaminal or interlaminar injections.

Further, the amendments clarify what constitutes a non-operative therapeutic procedure and recommend acupuncture for subacute or chronic pain patients who are trying to increase function and/or decrease medication usage and have an expressed interest in this modality. It is also recommended for subacute or acute pain for patients who cannot tolerate NSAIDs or other medications.

Draft Rules:

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

Informational Website:

http://www.laworks.net/WorkersComp/OWC_MedicalGuidelines.asp

9/20/2018 Council Meeting Agenda

http://statelink.stateside.com/Attachments/45082_9-20_rules.docx

Rule Development:

The Council met 9/20/2018 to discuss drafting a notice of intent (NOI) regarding the amendments. Since then, the Commission has released a draft version of the chronic pain guidelines. Comments will be accepted on the draft for an indeterminate period of time. The Commission has not determined a date of when they expected to formally propose the rule. Please note that once the formal process begins (i.e. when an NOI is filed) the rulemaking process takes a minimum of five months and includes a period for public comments and a public hearing.

According to the introduction of the treatment guidelines, although the primary purpose is advisory and educational, the guidelines are enforceable under the Workers' Compensation Act. A timeline for further consideration has yet to be established.

Maine

ME Workers' Compensation Board adopted rule: 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 employees 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

Form 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.

Maryland

MD Workers' Compensation Commission final rules effective 3/12/2018: General Administrative

Upcoming Action: Nothing Scheduled

Regulation ID: MD36936

Rule Summary:

The Commission adopted amendments to Workers' Compensation provisions. The amendments facilitate the filing and service of forms and documents by electronic means, and clarify that electronic signatures are permitted.

Notice of the Final Rules:

http://www.dsd.state.md.us/MDR/4505/Assembled.htm#_Toc507421397

Notice of the Proposed Rule: (pdf pg. 40)

http://statelink.stateside.com/Attachments/41095_MD_Regis.pdf

Rule Development:

Notice of the final rule was published in the most recent Maryland register publication. The final rule is effective 3/12/2018.

The Commission proposed amendments for notice and comment. All written comments were accepted until 1/22/2018. The Commission took final action on the proposal during a public meeting held on 2/8/2018.

Minnesota

MN Department of Labor and Industry notice effective 10/1/2018: PC-Pricer Program for Payment of Inpatient Hospital Services

Upcoming Action: Nothing scheduled

Regulation ID: MN39815

Rule Summary:

The Department gave notice of availability of the PC-Pricer Program for payment of inpatient hospital services for patients discharged on or after 10/1/2018. The notice indicates that the FY 2018.0 PC-Pricer Program must be used to calculate payment for non-critical access inpatient hospital services, articles, and supplies.

Notice of Availability:

https://mn.gov/admin/assets/SR43_14%20-%20Accessible_tcm36-354308.pdf

Rule Development:

The notice of availability was published in the Minnesota Register. The change is effective 10/1/2018.

Montana

MT Department of Labor and Industry proposed rules: Workers' Compensation Formulary

Upcoming Action: Public Hearing 11/9/2018; Comment Period Ends 11/16/2018

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.

Notice of Proposed Rules (PDF p. 24):

<https://sosmt.gov/download/191/2018/36171/issue-20-current.pdf>

Drug Formulary Committee Minutes (9/25/2018):

http://statelink.stateside.com/Attachments/42015_Formulary_Committee_Minutes_09262018.docx

Drug Formulary Committee Agenda (9/25/2018):

http://statelink.stateside.com/Attachments/42015_Agenda_9-25-2018.pdf

Draft Rules (September 2018):

[http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/5ba53291b77a1-18%2009%2021a%20EXPANDED%20%20formulary%20rules%20mec%20\(002\)%20\(1\).pdf?ver=2018-09-21-130217-690](http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/5ba53291b77a1-18%2009%2021a%20EXPANDED%20%20formulary%20rules%20mec%20(002)%20(1).pdf?ver=2018-09-21-130217-690)

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 Minutes (5/2/2018):

<http://erd.dli.mt.gov/Portals/54/Documents/Work-Comp-Claims/Medical-Regs/Formulary%20Committee/Formulary%20Committee%20Meeting%205%2020%202018.pdf>

S.B. 312 (2017):

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

Rule Development:

The Department published notice of proposed rules in the Montana Administrative Register. A public hearing will be held 11/9/2018, and public comments will be accepted until 11/16/2018. After the comment period ends, the Department will review the comments and make revisions if necessary. The Department will then decide whether to adopt the rules, with or without revisions. If adopted, the rules will become final and effective and notice will be published in the Montana Administrative Register. The rules will become effective a day after publication in the register unless otherwise specified.

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 released. The Committee discussed draft rules regarding prior authorization and first fill requirements and dispute resolution.

The Committee met 6/19/2018. 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.

The Committee met 9/10/2018. Per Mr. Wheeler, the Committee received feedback from stakeholders and is working on incorporating that feedback into the next iteration of the draft.

Minutes from the 9/25/2018 meeting were released. During the meeting, Commissioner Wheeler outlined the changes from the 8/1/2018 draft to the new 9/21/2018 revised draft. Changes include, among other things, adding a definition of "claim"; adding the minimum requirements for the notice of legacy claims and removing "business" from 14 days as it was inadvertently added in (Tennessee and Texas use calendar days in their formulary rules).

New Hampshire

NH Insurance Department final rule effective 6/11/2018: Utilization Review Entities

Upcoming Action: Nothing scheduled

Regulation ID: NH37710

Rule Summary:

The Department adopted a rule concerning medical utilization review. The rule adds a waiver provision to the rules governing medical utilization review entities.

Notice of Final Rule: (pdf pg 13)

<http://www.gencourt.state.nh.us/rules/register/2018/july-12-18.pdf>

Notice of 5/18/2018 JLCAR Meeting: (pdf pg 35)

<http://www.gencourt.state.nh.us/rules/register/2018/may-10-18.pdf>

Notice of Proposed Rule: (pdf pg 6)

<http://www.gencourt.state.nh.us/rules/register/2018/march-22-18.pdf>

Rule Development:

Notice of the final rule was published in the New Hampshire Rulemaking Register. The effective date of the rule is 6/11/2018.

Notice of the proposed rule was published in the New Hampshire Rulemaking Register. A public hearing was held 4/17/2018. Comments were due 4/24/2018. Staff reviewed any comments received. The rule was heard by the Joint Legislative Committee on Administrative Rules for review and approval at the 5/18/2018 meeting.

New Jersey

NJ Department of Labor and Workforce Development final rules effective 5/21/2018: Electronic Medical Bills for Workers' Compensation Claims

Upcoming Action: Nothing scheduled

Regulation ID: NJ36120

Rule Summary:

The Department adopted amendments to its workers' compensation claim rules to address electronic medical bills. The rules, which implement 2016 state legislation, establish the following requirements:

- 1) All workers' compensation healthcare providers, their billing representative, or any company that has purchased the right to pursue their bill (with certain exceptions) shall submit complete electronic medical bills for payment on standardized electronic forms following Department guidelines;
- 2) Employers, workers' compensation insurance carriers of employers ["carriers"], or workers' compensation third-party administrators ["TPAs"] must comply with the guidelines and accept electronic medical bills submitted for the payment of medical services;
- 3) Medical information submitted on electronic medical bills for payment of medical services shall be confidential, pursuant to the "Workers' Compensation Medical Information Confidentiality Act;"
- 4) Employers, carriers or TPAs shall acknowledge receipt of a complete electronic medical bill to the party that sent the complete electronic medical bill;
- 5) Payment for a complete electronic medical bill deemed by the employer, carrier or TPA to be compensable shall be paid within 60 days or less;
- 6) Employers, carriers and TPAs may exchange electronic data and establish payment deadlines through PPO or IPA contracts or agreements with health care providers or their billing representatives in a non-prescribed format or timeline, independent of the guidelines; and
- 7) The applicable "guidelines" or standard to be followed in the submission of electronic medical bills for workers' compensation claims will be the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 837 National Standard.

Notice of Final Rules:

[https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=cc2dcfa4-15f0-4966-8865-48d9e55b7ea8&nodeid=AABAABAABAAEAAJAAB&nodepath=%2FROOT%2FAAB%2FAABAAB%2FAABAA BAAB%2FAABAABAABAAE%2FAABAABAABAAEAAJ%2FAABAABAABAAEAAJAAB&title=50+N.J.R.+1280\(a\) &config=025154JABiMmFjYzAxMy1hNjlyLTQ0YTctOTY0NS1iOGNIMTRiYzBkNGQKAFBvZENhdGFsb2flnvG wky16hNN9rcMfcun6&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A5SCD-X880-01XC-F10V-00008-00&ecomp=g35vkkk&prid=76d1b814-4231-4ce3-b162-125f373cf8ba](https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=cc2dcfa4-15f0-4966-8865-48d9e55b7ea8&nodeid=AABAABAABAAEAAJAAB&nodepath=%2FROOT%2FAAB%2FAABAAB%2FAABAA BAAB%2FAABAABAABAAE%2FAABAABAABAAEAAJ%2FAABAABAABAAEAAJAAB&title=50+N.J.R.+1280(a) &config=025154JABiMmFjYzAxMy1hNjlyLTQ0YTctOTY0NS1iOGNIMTRiYzBkNGQKAFBvZENhdGFsb2flnvG wky16hNN9rcMfcun6&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-codes%2Furn%3AcontentItem%3A5SCD-X880-01XC-F10V-00008-00&ecomp=g35vkkk&prid=76d1b814-4231-4ce3-b162-125f373cf8ba)

Notice of Proposed Rules:

http://statelink.stateside.com/Attachments/39899_49_NJR_3419_a_.pdf

Rule Development:

The Department adopted the rules and published notice of the final rules in the New Jersey Register. The rules are effective 5/21/2018.

The Department published notice of the proposed rule in the New Jersey Register. The Department held a public hearing 11/14/2017. and staff accepted written comments until 12/15/2017.

New York

NY Workers' Compensation Board proposed rule: Drug Formulary

Upcoming Action: Comments Due 11/16/2018

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 Revised Proposed Rule (pdf pg 25):

<https://docs.dos.ny.gov/info/register/2018/october17/rulemaking.pdf>

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:

The Board published the revised version of the proposed rules in the New York State Register. Written comments are due 11/16/2018, but no public hearing is scheduled.

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. As of October 2018, staff confirmed that the Board is making revisions to the draft rules. The Board plans to publish a revised version of the draft rules and re-open a 30-day comment period. However, when asked about a timeline, staff declined to provide a concrete date of when they will publish the revised proposed rules; only that it would happen in the near future.

New York

NY Workers Compensation Board final rule effective 7/25/2018: 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.

North Carolina

NC Industrial Commission final rule effective 5/1/2018: 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.

North Dakota

ND Workforce Safety and Insurance final guidance effective 8/27/2018: Documentation Requirements for Prior Authorization of Therapeutic Injections

Upcoming Action: Nothing Scheduled

Regulation ID: ND39513

Rule Summary:

The Department has published guidance establishing minimum elements of medical documentation to initiate a medical review for prior authorization of therapeutic injections. The policy requires a provider to complete the Utilization Review Request (UR-C) form and submit along with supporting documentation relevant to each type of injection. This policy applies to the following types of injections: Epidural Steroid Injections (ESI); Regional Sympathetic Block; Intra-articular Sacroiliac (SI) Joint Injection (Fluoroscopy or CT Guidance); Botox Injection; Viscosupplementation (Hyaluronic Acid) Injection; Facet Joint Intra-articular Block/Facet Medial Branch Block/Radiofrequency Medial Branch Neurotomy (Ablation).

8/27/2018 Documentation Requirements for Prior Authorization of Therapeutic Injections:

<http://www.workforcesafety.com/sites/default/files/providers/Injection%20Policy.pdf>

Rule Development:

The Department published the guidance 8/27/2018. It is effective upon publication. Guidance documents such as these do not proceed through a formal rulemaking process.

Ohio

OH Bureau of Workers' Compensation final rule effective 1/1/2018: Provider Access and Payment

Upcoming Action: Nothing scheduled

Regulation ID: OH36178

Rule Summary:

The Bureau adopted rule amendments and a new rule addressing provider access and payment. Specifically, the amendments update the requirements for provider access to the health partnership program (HPP) - provider application and certification criteria and the new rule language incorporates the best current clinical practices, adds injured workers' awareness of treatment options, includes a two-month course of comprehensive conservative care, and provides criteria for consideration of lumbar fusion surgery.

Notice of final rule:

<http://www.reginfoohio.state.oh.us/jsps/publicdisplayrules/processPublicDisplayRules.jsp?MONTH=12&DAY=22&YEAR=2017&doWhat=GETBYFILINGDATE&actionType=all&doWhat=GETBYPUBHEARINGDAT>

[E&Submit=Search](#)

Notice of the proposed rule:

http://www.registerofohio.state.oh.us/pdfs/phn/4123_NO_317155_20171017_1407.pdf

A copy of the rule text:

[http://www.registerofohio.state.oh.us/pdfs/4123/0/6/4123-6-02\\$3_PH_OF_A_RU_20171017_1407.pdf](http://www.registerofohio.state.oh.us/pdfs/4123/0/6/4123-6-02$3_PH_OF_A_RU_20171017_1407.pdf)

and

http://www.registerofohio.state.oh.us/pdfs/4123/0/6/4123-6-32_PH_OF_N_RU_20171017_1407.pdf

Rule Development:

Notice of the final rule was published in the Ohio Register. The final rule is effective 1/1/2018.

Notice of the proposed rule was published for public review. Comments were due 11/20/2017. A public hearing was held 11/20/2017. Staff internally reviewed the rule and comments received.

Ohio

OH Bureau of Workers' Compensation final rule effective 2/15/2018: Provider Credentialing

Upcoming Action: Nothing scheduled

Regulation ID: OH36216

Rule Summary:

The Bureau adopted rule amendments addressing provider access to the health partnership program (HPP), provider credentialing. Specifically, the amendments define the credentialing criteria providers or entities must have to participate and provide ongoing care in Bureau's managed care program. The purpose behind the rule is to update requirements that providers must meet for BWC service provider certification to be aligned with legislative changes.

Notice of the final rule:

http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/processPublicDisplayRules.jsp?entered_rule_no=4123-6-02.2&doWhat=GETBYRULENUM&raID=0

Notice of proposed rule:

http://www.registerofohio.state.oh.us/pdfs/phn/4123_NO_318051_20171130_0821.pdf

A copy of the proposed rule text:

http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/processPublicDisplayRules.jsp?entered_rule_no=4123-6-02.2&doWhat=GETBYRULENUM&raID=0

Notice of Common Sense Initiative informal comment period:

<https://www.bwc.ohio.gov/downloads/blankpdf/OAC4123-6-02.2CSI.pdf>

Draft rule:

<https://www.bwc.ohio.gov/downloads/blankpdf/OAC4123-6-02.2Proposed.pdf>

Rule Development:

The final rule was adopted and is effective 2/15/2018. Notice was published in the Ohio Register.

The Bureau released notice of the draft rule for the Common Sense Initiative informal comment period. Comments were due 11/14/2017. The Bureau published notice of the proposed rule. A public hearing was held 1/4/2018 with comments due at the hearing. The Bureau internally reviewed any comments received. The final rulemaking was completed and submitted to the Joint Committee on Administrative Rules Review for review.

Ohio

OH Bureau of Workers' Compensation final rule effective 7/1/2018: 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.

Ohio

OH Bureau of Workers' Compensation proposed rule: Amendments to Outpatient Medication Formulary

Upcoming Action: Public hearing 11/20/2018; Comments due 11/20/2018

Regulation ID: OH38170

Rule Summary:

The Bureau has proposed changes amending coverage of several drug classes listed within the drug formulary. Specifically, changes are as follows: (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. The amendments are scheduled to be effective 1/1/2019.

Notice of the proposed rule:

http://www.registerofohio.state.oh.us/pdfs/phn/4123_NO_323136_20181011_1210.pdf

Copy of the proposed rule:

http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/processPublicDisplayRules.jsp?entered_rule_no=4123-6-21.3&doWhat=GETBYRULENUM&raID=0

Draft Rule:

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

Rule Development:

Staff have released notice of the proposed rule. A public hearing is scheduled 11/20/2018 with comments due at the hearing. The rules were filed concurrently with JCARR which begins their jurisdiction period for review.

The Bureau emailed specific stakeholders requesting comments on the changes. Comments were due 5/18/2018. 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. CSI internally reviewed the rules and any comments received. CSI issued a recommendation to the Board based upon comments received.

Oregon

OR Workers Compensation Division final rules effective 1/1/2018: Claims Administration

Upcoming Action: Nothing Scheduled
Regulation ID: OR36034

Rule Summary:

The Division adopted a series of revisions to its claims administration provisions to implement recent legislation (House Bills 2338 and 3363). The rules amend certain provisions, repeal others, and add new provisions to 1) address multiple provisions related to death benefits, 2) add a definition of "dependent," 3) clarify a provision regarding wage earning agreements, 4) specify that an insurer must forward a copy of the signed IME report to the attending physician, 5) clarify requirements affecting workers' rights to a worker-requested medical examination (WRME), 6) Specify that the director will determine the attending physician or authorized nurse practitioner does not concur with IME reports if the director does not receive documents demonstrating the attending physician or authorized nurse practitioner concurs or does not concur with the reports within 30 days after the worker's request for hearing, 7) revise other provisions affecting claims administration, and 8) update citations and references and correct typographical errors.

Final Rules:

http://wcd.oregon.gov/laws/Documents/New_rules/60-17062ub-short.pdf

Notice of Proposed Rules (pdf p. 11):

<http://sos.oregon.gov/archives/Documents/oar/2017-october-bulletin.pdf>

Rule Development:

The Workers' Compensation Division posted final rules. The rules are final and effective 1/1/2018.

The Division published notice of the proposed rules. A public hearing was held on 10/20/2017, and comments were due 10/26/2017. The Division adopted the rules in December 2017.

Oregon**OR Workers' Compensation Division departmental discussion: 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.

Oregon

OR Workers' Compensation Division departmental discussion: Review of Medical Fee & Payment, Medical Services, and Managed Care Organizations Rules

Upcoming Action: 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:

As reported previously, 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 accepted recommendations for additional agenda topics until 8/31/2018. Interested parties were

encouraged to fill out a "Possible Rule Issue" Form.

Pennsylvania

PA Department of Labor and Industry, Bureau of Workers' Compensation, final notice: Range of Fees Charged by Utilization Review Organizations and Peer Review Organizations for Services Performed

Upcoming Action: Nothing Scheduled

Regulation ID: PA37727

Rule Summary:

The Bureau published its annual notice relating to the range of fees charged by utilization review organizations and peer review organizations for services performed under the Workers' Compensation Act. The range of fees noticed was for services performed under the Act during 2017.

Final Notice:

<https://www.pabulletin.com/secure/data/vol48/48-12/473.html>

Rule Development:

The Bureau published the annual notice in the Pennsylvania Bulletin. This is a final notice, and this entry is considered final.

Pennsylvania

PA Department of Health final guidelines: 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.

Tennessee

TN Labor and Workforce Development final rules effective 3/13/2018: Electronic Medical Billing for Workers' Compensation

Upcoming Action: Nothing scheduled

Regulation ID: TN35036

Rule Summary:

The Department has adopted a rule concerning electronic medical billing. The rule adds new regulations defining the format of medical billing, communication requirements between providers and payers as well as various reimbursement requirements for medical billing.

Notice of Final Rules:

http://publications.tnsosfiles.com/rules_filings/12-10-17.pdf

Notice of Proposed Rules

http://publications.tnsosfiles.com/rules_filings/06-02-17.pdf

Rule Development:

Notice of the final rules were published in the Tennessee Administrative Register. The rule is effective 3/13/2018.

Notice of the proposed rule was published in the Tennessee Administrative Register. A public hearing was held 8/8/2017. Comments were due 8/8/2017. Staff reviewed any comments received. The rule was approved by the Attorney General.

Tennessee

TN Bureau of Workers' Compensation final rules effective 2/5/2018: Workers' Compensation Appeals Board

Upcoming Action: Nothing Scheduled
Regulation ID: TN35075

Rule Summary:

The Bureau adopted amendments to rules concerning the Workers' Compensation Appeals Board. Specifically, the amendments revise provisions concerning the filing of notices of appeal, the procedures for appealing interlocutory and compensation orders, and the assessment of costs on appeal.

Notice of Final Rules:

http://publications.tnsosfiles.com/rules_filings/11-08-17.pdf

Notice of Proposed Rules:

http://publications.tnsosfiles.com/rules_filings/06-09-17.pdf

Rule Development:

Notice of the final rule was published in the Tennessee Administrative Register. The final rule is effective 2/5/2018.

Notice of the proposed rules was published in the Tennessee Register. A public hearing was held 8/16/2017. Comments were due at the time of the hearing. Staff reviewed any comments received.

Tennessee

TN Labor and Workforce Development final rules effective 5/31/2018 and final rules effective 8/1/2018: Workers' Compensation Claims

Upcoming Action: Nothing scheduled
Regulation ID: TN35236

Rule Summary:

The Department has adopted and proposed rules concerning worker compensation claims. Specifically, the rules amend the forms that are used for reporting and filing of claims purposes as well as creates new rules certifying adjusters and adjusting entities.

Notice of Final Rule: (Claims Handling Standards)

<https://publications.tnsosfiles.com/rules/0800/0800-02/0800-02-14.20180802.pdf>

Notice of Final Rules: (General Workers' Compensation)
http://publications.tnsosfiles.com/rules_filings/03-02-18.pdf

Notice of Final Rules: (Adjuster and Adjusting Entity Certification Program)
http://publications.tnsosfiles.com/rules_filings/03-01-18.pdf

Notice of Proposed General Workers' Compensation Rules:
http://publications.tnsosfiles.com/rules_filings/06-26-17.pdf

Notice of Proposed Claims Handling Standards:
http://publications.tnsosfiles.com/rules_filings/06-25-17.pdf

Notice of Proposed Adjuster and Adjusting Entity Certification Program Rules:
http://publications.tnsosfiles.com/rules_filings/06-27-17.pdf

Rule Development:

Notice of the final rules were published in the Register. The final rules are effective 8/1/2018.

Notices of the proposed rules were published in the Tennessee Administrative Register. A public hearing was held 8/29/2017. Comments were due 8/29/2017. Staff reviewed any comments received. Notice of the final rules were published in the Register. The final rules are effective 5/31/2018.

Tennessee

TN Department of Labor and Workforce Development final rule effective 2/5/2018: Worker's Compensation Medical Treatment Guidelines

Upcoming Action: Nothing scheduled
Regulation ID: TN36397

Rule Summary:

The Department has proposed a rule concerning worker compensation medical treatment guidelines. Specifically, the rule adopts the ODG Drug Formulary as well as instructs the Medical Director to review updates to the medical treatment guidelines.

Final Rules:
<http://publications.tnsosfiles.com/rules/0800/0800-02/0800-02-25.20180205.pdf>

Notice of Proposed Rule:
http://publications.tnsosfiles.com/rules_filings/11-09-17.pdf

Rule Development:

The rule is effective 2/5/2018.

Notice of the proposed rule was published in the Tennessee Administrative Register. A public hearing has not been scheduled. Public hearing requests were due 2/4/2018.

Texas

TX Department of Insurance final rule effective 4/22/2018: Preauthorization for Compounded Drugs and Related Provisions

Upcoming Action: Nothing scheduled

Regulation ID: TX36015

Rule Summary:

The Department has adopted amendments to several of its rule sections to address pharmacy benefits in the Workers' Compensation system. The revisions affect: 1) definitions; 2) requirements for use of the closed formulary for claims not subject to certified networks; and 3) requirements for use of the closed formulary for claims subject to certified networks. The Department would amend the definition of "closed formulary" to exclude any prescription drug created through compounding, and require preauthorization for all prescription drugs created through compounding for claims subject to and not subject to certified networks.

Notice of Final Rule:

<https://www.sos.state.tx.us/texreg/archive/April132018/Adopted%20Rules/28.INSURANCE.html#84>

Notice of Proposed Rule:

<https://www.sos.state.tx.us/texreg/archive/January192018/Proposed%20Rules/28.INSURANCE.html#25>

Working Draft of Rule Changes:

<http://www.tdi.texas.gov/wc/rules/documents/drcompnd0616.pdf>

Rule Development:

Notice of the final rule was published in the Register. The final rule is effective 4/22/2018.

The Department released a working draft of the rule changes, available above. No public events are currently scheduled. If the Department decides to move forward with a rulemaking, it will need to publish a formal notice of proposed rules in the Texas Register, hold a public comment period, and potentially hold a public hearing. Notice of the proposed rule was published in the Texas Register. A public hearing was held 2/15/2018. Comments were due 2/20/2018. Staff reviewed any comments received.

Texas

TX Department of Insurance final rule effective 5/6/2018: Workers' Compensation Telemedicine Services

Upcoming Action: Nothing scheduled
Regulation ID: TX36018

Rule Summary:

The Department has adopted a new rule to expand access to telemedicine services in the workers' compensation system. The rule will allow health care providers to bill and be reimbursed for telemedicine services regardless of where the injured employee is located at the time the services are delivered. Presently, health care providers must follow applicable Medicare payment policies and billing provisions when billing for telemedicine services. Under the new rule, an exception would remove any limitation on the geographic area or location of the injured employee outlined by Medicare.

Notice of Final Rule:

<https://www.sos.state.tx.us/texreg/archive/April272018/Adopted%20Rules/28.INSURANCE.html#92>

Notice of Proposed Rule:

<https://www.sos.state.tx.us/texreg/archive/March22018/Proposed%20Rules/28.INSURANCE.html#35>

Division of Workers' Compensation Rulemaking - January 2018:

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

Working Draft of Rule Changes:

<http://www.tdi.texas.gov/wc/rules/documents/dr13330tm0917.pdf>

Rule Development:

Notice of the final rule was published in the Register. The rule is effective 5/6/2018.

The Department released a working draft of the rule changes, available above. Informal comments were due 10/23/2017 to InformalRuleComments@tdi.texas.gov. The Division of Workers' Compensation recently released an agenda which anticipated formal proposed rules in February 2018.

Notice of the proposed rule was published in the Texas Register. Comments were due 4/1/2018.

Texas

TX Division of Workers' Compensation departmental discussion: 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.

Texas

TX Division of Workers' Compensation proposed rule: 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.

Texas**TX Medical Disclosure Panel final rule effective 8/22/2018: 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.

Texas**TX Department of Insurance proposed rule: 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

VT Department of Labor proposed rules: Vermont Workers' Compensation and Occupational Disease Rules 1-27

Upcoming Action: Nothing Scheduled

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 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.

The Department published notice of the proposed rules. Public hearings were held 8/21/2018, 8/23/2018, and 8/24/2018. The Department accepted comments until 8/31/2018.

Virginia

VA Workers' Compensation Commission draft rules: 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:

As previously reported, 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

WA Department of Labor and Industry Medical Provider Group Network: 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.

Washington

WA Department of Labor and Industries departmental discussion: 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://lawfilesexext.leg.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.

Washington

WA Department of Labor and Industries departmental 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://lawfilesexext.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.

Wyoming**WY Department of Workforce Services proposed rules: Utilization Guidelines**

Upcoming Action: Hearing Requests Accepted Until Further Notice; Comment Period Ends 10/8/2018
Regulation ID: WY39487

Rule Summary:

The Department proposed amendments to rules concerning workers compensation. Specifically, the amendments would update the effective date of chiropractic utilization guidelines to 3/1/2018 and would incorporate by reference federal rules as of 1/1/2018. The amendments make other changes as well.

Notice of Proposed Rules:

https://rules.wyo.gov/DownloadFile.aspx?source_id=1741&source_type_id=109&doc_type_id=2122&file_type=pdf&filename=1741.pdf&token=030240096138092139113025107060142049144125111089

Rule Development:

The Department published proposed rules. Comments will be accepted until 10/8/2018. A public hearing has not been scheduled, but one will be held if requested by twenty five people, a government subdivision, or an agency with at least twenty five members. Hearing requests will be accepted until further notice. After the comment period, the Department will decide whether to adopt the rules. If adopted, the rules will be submitted to the Governor for approval. The Governor has 75 days to approve the rules.