

Workers' Comp Regulatory Activity

May 15, 2020 – July 1, 2020

LOUISIANA

Reg ID: LA56647

Issues: Workers' Compensation Pharmacy

Summaries: The Office adopted an emergency rule to address the statewide public health emergency declared as the result of the imminent threat posed to Louisiana citizens by COVID-19,

§2901: The rule applies to any and all other workers' compensation insurance-related entities licensed by the commissioner or doing business in Louisiana and their insureds, policyholders, members, subscribers, enrollees, and certificate holders.

§2902: The rule will become effective on 3/19/2020 and will remain in effect until the stay-at-home order terminates or the maximum time period allowed for an emergency rule terminates.

§2903: The rule mandates workers' compensation insurers to allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. The regulation does not apply to prescription drugs with a high likelihood of abuse. The authorization will last for at least a thirty day and up to ninety-day supply with the appropriate approval.

§2904: The rule mandates all workers' compensation insurers to waive time restrictions on prescription medication refills, which include the suspension of electronic "refill too soon" edits to pharmacies, to enable insureds or subscribers to refill prescriptions in advance, if there are authorized refills remaining.

The rule mandates all workers' compensation insurers to authorize payment to pharmacies for at least a thirty day supply of any prescription medication, regardless of the date upon which the prescription had most recently been filled by a pharmacist, at any time when the state is declared to be under a state of emergency under certain conditions. The prescription may not be a schedule II medicinal drug and the medication must be essential to the maintenance of life or to the continuation of therapy in a chronic condition. In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort, or the dispensing pharmacist notifies the prescriber of emergency dispensing within a reasonable time after such dispensing. The rule allows the pharmacist to refill most medications, one time, with a thirty-day supply, even if the pharmacist cannot reach the patient's physician.

Links: [Rule](#)

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MONTANA

Reg ID: MT56889

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Department adopted amendments to the medical fee schedules for workers' compensation purposes. The fee schedule references are updated to provide for dates into June 2020. Further, the references to the "Montana Workers' Compensation Facility Fee Schedule Instruction Set" is for the effective date of 7/1/2020. It adds that as of 7/1/2020 the base rate is \$8,909, an increase from \$8,599 that ends 6/30/2020. Additionally, payments for inpatient acute care hospital services formula remains the same, the references the increase rates laid out above.

The new fee schedule is references for being effective 7/1/2020 as well.

Lastly, the conversion factors for services as of 7/1/2020 will now be \$63.41, an increase from \$64.04 under section 2. And under section 3, the 7/1/2020 is increased from \$69.58 to \$67.32.

What Just Happened: The Department published notice of the final rule in the register.

Links:

- [Notice of final rule \(pdf pg. 11\)](#)
- [Notice of proposed rule \(pdf pg. 7\)](#)

NEW YORK

Reg ID: NY55929

Issues: Workers' Compensation Prescription Drug Formulary

Summaries: The Board adopted emergency amendments and final rule amendments to its Prescription Drug Formulary. The final rule amendments are identical to the emergency rule amendments.

Specifically, the Board updates Section 441.2 of Title 12 NYCRR to reference the 3/3/2020 fourth edition of the New York Workers' Compensation Formulary. The previous version of the rule referenced the 11/20/2019 edition.

What Just Happened: The Board published notice of a final rule in the 6/17/2020 Register. The final rule is effective 6/17/2020.

Links:

- [Final Rule \(Doc. Pg. 24\)](#)
- [Emergency and Proposed Rule \(Doc. Pg. 33\)](#)

NEW YORK

Reg ID: NY54302

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Department readopted the emergency and has adopted proposed permanent rule addresses professional health services fee schedules. The updates are necessary to delay the effective date of new workers' compensation fee schedules for no-fault reimbursement. The new fee schedules will be effective 10/1/2020, which were previously scheduled to be effective 1/1/2020.

The Department updated the rule to reflect the Workers' Compensation Board adoption of amendments to its fee schedules for acupuncturists, physical therapists, occupational therapists, licensed clinical social workers, and self-employed nurse practitioners. The amendments were initially made effective 1/1/2020, but an adoption on that date would not give these professionals time to adjust their internal billing systems to reflect the fee schedule change. As such, the Department delayed the effective date to 10/1/2020.

The Department has the statutory authority to make this emergency adoption and proposed rule-making in Financial Services Law, Sections 202 and 302, and Insurance Law, Sections 301, 2601, 5221 and Article 51.

What Just Happened: The Department has released notice of the final rule which is effective 4/22/2020.

Links:

- [Final Rule \(pdf pg. 21\)](#)
- [Readopted Emergency and Proposed Rule \(Pg. 12\)](#)
- [Emergency and Proposed Rule \(Pg. 17\)](#)

OHIO

Reg ID: OH55637

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Board adopted amendments to the workers' compensation payment and fee schedule rules. The adopted amendments apply to health care providers who provide services to individuals receiving workers' compensation.

4123-6-37.2: The adopted amendments update the reimbursement rates for payment of hospital outpatient services and update the effective date to 2020. The amendments also add a rule section regarding provider-based status which allow the Bureau to request information from any facility which bills the Bureau for services.

4123-6-37.3: The adopted amendments update the rule governing payment for ambulatory surgical center services and update the effective date to 2020.

4123-6-08: The amendments update the bureau fee schedule rule and update the effective date to 2020.

What Just Happened: The Bureau published notice of the final rules in the Ohio Register. The rules are effective 5/16/2020.

Links:

- [Final Rule Number 4123-6-08](#)
- [Final Rule Number 4123-6-37.3](#)
- [Final Rule Number 4123-6-37.2](#)

TEXAS

Reg ID: TX55588

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Department adopted amendments to a rule related to categories of supporting information. The amendments are necessary to implement Senate Bill 1336, 86th Legislature, Regular Session (2019) which "eliminated the department's statutory requirement to develop workers' compensation classification relativities."

Specifically, the amendments remove language which outlined for workers' compensation filings using classification relativities established under Insurance Code §2053.051, what rate change information should consist of. Please note that the rate change information was intended to reflect the changes for all policy holders. The language previously stated that the rate change information would consist of: (i) the percentage change in the underlying classification relativities; (ii) the change in the insurer's deviation; (iii) the combined change in the classification relativities and the insurer's deviation; (iv) a six-year rate change history; and (v) the effect that changes in fee income have on the total average rate change."

What Just Happened: The Department published notice of a correction in the 6/12/2020 Register. The effective date of the rule was previously published incorrectly by the Department as 6/1/2020. The correct effective date of the rule is 7/1/ 2020.

Links:

- [Notice of Correction \(Doc. Pg. 4095\)](#)
- [Notice of Final Rule \(Doc. Pg. 3635\)](#)
- [Notice of Proposed Rule \(Doc. Pg. 1167\)](#)

WYOMING

Reg ID: WY54076

Issues: Workers' Compensation Coverage

Summaries: The Department has adopted an amendment to the rules which govern the coverage of miscellaneous medical protocols.

Specifically, the adopted amendment adds language relating to spinal cord stimulators. The revisions forbid the Department from covering neurostimulator procedures or any costs related to the placement or removal of any spinal cord stimulator. The amendment is in response to a Medical Commissions study which found that spinal cord stimulators "do not result in significant changes to patients" and are not clinically effective.

What Just Happened: The Department published notice of the final rule. The final rule is effective 4/16/2020.

Links:

- [Final Rule Text](#)
- [Proposed Rule](#)