

Workers' Comp Regulatory Activity

March 15, 2020 – May 1, 2020

GEORGIA

Reg ID: GA56219

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Board adopted a new rule and amendments to a rule related to the adoption and amendment of rules of the Board. Rule 60 was amended to remove provisions regarding adoption and amendment of Board rules. New Rule 59 provides the new procedure for adoption and amendment of Board rules. Specifically, the new rule states that the Board must publish an exact copy of the proposed rule, or proposed amendments, and include a statement that interested persons will have 30 days within which to submit data, views, or arguments in writing. At the discretion of the Board, a public hearing may be held as well, among other provisions.

What Just Happened: The Board published notice of the final rules on its website. The rules have an effective date of 3/11/2020.

Links:

- [Final Rules](#)
- [Summary of Board Rule Changes](#)

LOUISIANA

Reg ID: LA56486

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Office of Worker's Compensation has published notice of an emergency rule in response to COVID-19 to temporarily add additional codes for the purpose of delivering care and allowing providers to use telemedicine/telehealth methods. The rule applies to any and all other workers' compensation insurance-related entities.

Rule 5125: The rule mandates modifier codes to be used by providers to identify procedures or services that are modified due to specific circumstances. The rule mandates modifiers listed in the CPT must be added to the procedure code when the service or procedure has been altered from the basic procedure described by the descriptor. The measure mandates modifier-22 is used to report an unusual service, a report explaining the medical necessity of the situation must be submitted with the claim to the carrier. The rule mandates the use of modifiers but does not imply or guarantee that a provider will receive reimbursement as billed. The rule mandates reimbursement for modified services or procedures must

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be based on documentation of medical necessity and must be determined on a case by case basis. The rule mandates modifier 95 appended to a code that indicates it was performed by telemedicine/telehealth methods. Services should be reimbursed the same amount as the exact same codes without the modifier as long as the Emergency Rule is in effect. Rule 5157: The rule includes maximum reimbursement allowances in table 2 for providers.

What Just Happened: The Office of Worker's Compensation has published notice of an emergency rule. The rule is effective 4/3/2020.

Links: [Emergency Rule](#)

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.

What Just Happened: The Office issued notice of an emergency rule. The emergency rule is effective 3/19/2020.

Links: [Rule](#)

NEW YORK

Reg ID: NY55929

Issues: Workers' Compensation Prescription Drug Formulary

Summaries: The Board adopted emergency amendments and proposed rule amendments to its Prescription Drug Formulary.

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 an emergency rule and a proposed rule. The emergency rule is effective 4/1/2020 and will expire 5/1/2020.

Links: [Emergency and Proposed Rule \(Pg. 33\)](#)

OREGON

Reg ID: OR54334

Issues: Workers' Compensation

Summaries: The Department adopted amendments to rules related to claim closure, reconsideration, apportionment of pre-existing conditions, and chronic conditions. The amendments are in response to the decision of the Oregon Supreme Court in *Caren v. Providence Health System Oregon*, 365 Or 466 (2019).

Specifically, the amendments make changes that state that the insurer must satisfy the requirements for claim closure within the rules before issuing a Notice of Closure after the worker fails to seek medical treatment or fails to attend a mandatory closing examination. With regard to administrative claim closure, the amendments clarify that the written notification must be sent by regular mail, and a copy must be sent to the worker's attorney, if the work is represented. The amendments go on to state that the 14-day time frame after which the claim will be closed is counted from the date the letter was sent

certified mail. The amendments also state that the claim must be closed no matter if the worker is medically stationary, or not. The amendments add that, in order to close a claim, the insurer must "rate all permanent disability apparent in the record at the time of claim closure. This includes, but is not limited, to any irreversible findings."

Rule 436-030-0165 states that an insurer must pay all costs related to the completion of the medical arbiter process in this rule. The amendments add that these costs could include: "but are not limited to, costs for child care, travel, meals, lodging, and an amount equivalent to the worker's net lost wages for the period during which the worker is absent if the worker does not receive benefits under ORS 656.210(4) during the period of absence," among other changes.

What Just Happened: The Department published notice of the final rules. The rules have an effective date of 3/1/2020.

Links:

- [Notice of Final Rules](#)
- [Notice of Proposed Rules](#)

SOUTH CAROLINA

Reg ID: SC54355

Issues: Workers' Compensation Provider Fee Schedule

Summaries: The Commission made changes to the medical services provider manual prior to the effective date of the 2020 manual. The new Conversion Factor is \$50.30.

Additional changes include: (1) publisher's notice and overview and guidelines; (2) codes not values by CMS will be valued using a gap fill methodology provided by FAIR Health; (3) increased fees to a maximum of \$25; (4) the icon for Optum Modifier 51 Exempt codes has been removed; (5) MAPs in the rate tables for consultation codes; (6) amendments to pathology and laboratory services; (7) incorporation of biofeedback; (8) amendments to athletic training and muscle testing; (9) HCPCS G codes have been removed; (9) appendix B has been updated to delete codes that are not expressly flagged in the 2020 CPT manual as modifier 51 exempt. Please note the manual is only available for purchase. No proposed rules will be published in the register.

What Just Happened: The Commission released notice of the updated Medical Services Provider Manual. The changes go into effect 4/1/2020.

Links:

- [Notice of final 2020 provider's manual](#)
- [Fee schedule analysis documents](#)
- [Notice of comment period](#)