

Workers' Comp Regulatory Activity

May 15, 2019 – July 1, 2019

COLORADO

Reg ID: CO51575

Issues: Workers' Compensation Provider Issues

Summaries: The Division adopted amendments to its rules. The changes impact the following chapters: Rule 2: Workers' Compensation Insurance Premium and Payroll Surcharges; Rule 8: Authorized Treating Physician; Rule 9: Dispute Resolution; Rule 11-4(B)(5): Exchange of medical records packet.

The amendments to Rule 2 change the way the experience rating factor is calculated for self-insured employers by mandating use of the rating factor calculated by the National Council on Compensation Insurance.

The changes to Rule 8 include the elimination of a conflict with Rule 18 regarding the fee a physician may charge for audio recording an independent medical exam.

The changes to Rule 9 include guidance on the process for requesting an award of benefits for disfigurement based on photographs and scheduling pre-hearing conferences.

The changes to Rule 11-4(B)(5) include the addition of a requirement for the insurer to submit a copy of the chronological index of medical records and any previously unexchanged medical records to Claimant at the same time the medical records packet is submitted to the DIME examiner.

What Just Happened: The Attorney General approved the rules and they were published in the register.

What's Next: The final rules are effective 7/1/2019 or 7/15/2019.

Links:

- [Final rule Rule of Procedure 11-4\(B\)\(5\), effective 7/15/2019](#)
- [Final rule Rule of Procedure 9, effective 7/15/2019](#)
- [Final rule Rule of Procedure 8, effective 7/15/2019](#)
- [Final rule Rule 2, effective 7/1/2019](#)
- [Rule 8: Authorized Treating Physician](#)
- [Rule 11-4\(B\)\(5\): Exchange of medical records packet](#)
- [Rule 9: Dispute Resolution](#)
- [Rule 2: Workers' Compensation Insurance Premium and Payroll Surcharges](#)
- [Notice of Proposed Rules and Rule Hearing](#)

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MARYLAND

Reg ID: MD38813

Issues: Opioid Prescribing Guidelines, Workers' Compensation Opioid Limits

Summaries: The Department adopted new regulations pertaining to effective treatment for opioid overdose. The new rules provide guidance to healthcare practitioners, who are prescribing opioids to treat a patient's pain or an opioid use disorder. The proposal helps practitioners determine the appropriate circumstances in which to consider prescribing an opioid overdose reversal drug. These guidelines are being promulgated in accordance with H.B. 1329/S.B. 967 Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017.

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

What's Next: The final rule is effective 6/17/2019

Links:

- [Notice of final rule \(pdf pg 18\)](#)
- [Proposed Rule Notice](#)

MISSISSIPPI

Reg ID: MS51326

Issues: Workers' Compensation Pharmacy, Workers' Compensation Pharmacy Fee Schedule, Workers' Compensation Provider Fee Schedule

Summaries: The Commission adopted amendments to the medical fee schedule. The amendments update the rules to reflect changes in the way services are delivered and reimbursed. In addition, the amendments adjust maximum fees.

What Just Happened: The final fee schedule was filed with the Secretary of State. The effective date of the fee schedule is 6/15/2019.

Links:

- [Final Fee Schedule](#)
- [Notice of Final Fee Schedule](#)
- [Proposed Fee Schedule](#)
- [Notice of Proposed Fee Schedule](#)

NEW YORK

Reg ID: NY34776

Issues: Workers' Compensation Coverage, Workers' Compensation Pharmacy, Workers' Compensation Prescription Drug Formulary, Workers' Compensation Provider Fee Schedule

Summaries: The Board adopted 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.

The Board revised several sections of the proposed rules to, among other things, clarify provisions governing both notice to the provider and notice to the claimant regarding medical necessity decision on a generic or a Formulary drug, to require Prior Authorization for all compound medications.

What Just Happened: The Board adopted the rule and published notice in the New York State Register.

What's Next: The rule is final and effective 6/5/2019.

Links:

- [Notice of Final Rule \(p. 15\)](#)
- [Revised proposed rule \(pdf pg 18\)](#)
- [Board website](#)
- [Board summary of legislative changes](#)
- [Notice of drug formulary requirement](#)
- [Drug Formulary website](#)
- [Notice of proposed rule \(pdf pg 50\)](#)
- [Notice of revised proposed rule \(pdf pg 25\)](#)

OHIO

Reg ID: OH50437

Issues: Workers' Compensation Coverage, Workers' Compensation Provider Fee Schedule, Workers' Compensation Provider Issues

Summaries: The Bureau adopted amendments to lumbar fusion surgery, HBAI, and medical treatment reimbursement. Specifically the rules being amended include: (1) medical treatment reimbursement requests; (2) payment for lumbar fusion surgery; and (3) payment for health and behavior assessment and intervention services.

What Just Happened: The Bureau adopted the rules and posted an unofficial copy on its website. JCARR, a legislative committee, later approved the rules for official final publication in the Register of Ohio.

What's Next: The rules are effective 6/1/2019.

Links:

- [Final Rule Text \(Unofficial\)](#)
- [Notice of Final Rule 4123-6-33 Payment for health and behavior assessment and intervention services](#)
- [Notice of Final Rule 4123-6-32 Payment for lumbar fusion surgery](#)
- [Notice of Final Rule 4123-6-16.2 Medical treatment reimbursement requests](#)
- [Notice of proposed rules](#)

OHIO

Reg ID: OH51258

Issues: Workers' Compensation Pharmacy, Workers' Compensation Prescription Drug Formulary

Summaries: The Bureau adopted amendments to the outpatient medication formulary. The amendments revise the formulary appendix to the rule, which is the formulary drug list. The changes are the result of the recommendations from the Bureau's Pharmacy & Therapeutics Committee as well as a general cleanup of the formulary appendix.

What Just Happened: The Bureau posted unofficial copies of the final rule and appendix text on its website. Later, JCARR approved the final version for official publication in the Register of Ohio.

What's Next: The rule is effective 6/1/2019.

Links:

- [Final Rule \(Unofficial\)](#)
- [Rule Appendix \(Unofficial\)](#)
- [Notice of Final Rule and Appendices](#)
- [Notice of proposed rule](#)

OHIO

Reg ID: OH51446

Issues: Workers' Compensation Coverage

Summaries: The Bureau adopted revisions to a number of its regulations addressing claims. In particular, the Bureau amends the provisions governing immediate allowance and payment of medical bills for certain medical conditions in smaller claims, as well as extends a pilot program for provisional


treatment reimbursement approval. The rule package also includes a number of proposed amendments to death benefit provisions, which are not relevant to your issue set.

What Just Happened: The Bureau adopted the rules and published final notice in the Register of Ohio.

What's Next: The rules are effective 7/1/2019.

Links:

- [Notice of Final Rule 4123-6-01.2](#)
- [Notice of Final Rule 4123-3-36](#)
- [Notice of Public Hearing](#)



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