

Mississippi Workers' Compensation Commission

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May 4, 2007

EXECUTIVE SUMMARY OF 2007 PROPOSED CHANGES TO MISSISSIPPI WORKERS' COMPENSATION MEDICAL FEE SCHEDULE AND RELATED RULES

The Workers' Compensation Commission is proposing changes to its Medical Fee Schedule, and to related General and Procedural Rules. These proposed changes are being proposed under the authority and obligation given the Commission by Miss. Code Ann. sections 71-3-15(3) and 71-3-85 (Rev. 2000). The Commission last updated and amended parts of the Fee Schedule in 2003, and given the significant number of changes to applicable billing codes, the changes in both the methods and costs of delivery of medical services, and the need to clarify and/or update many of the billing and reimbursement procedures provided by our Schedule, the Commission is proposing the following changes in an effort to fulfill our statutory obligation under section 71-3-15(3) and maintain a fair, balanced and effective medical cost containment system for medical services provided to injured workers under the terms of the Mississippi Workers' Compensation Law.

I. Executive Summary of Proposed Changes

1. All medical fee data has been updated to incorporate current relative value units (RVU), CPT codes, DRG codes, HCPCS codes, ASC Payment Groups and other applicable codes, as published by the American Medical Association, the American Society of Anesthesiologists, and the Centers for Medicare and Medicaid Services;
2. Conversion factors for physician fees have been updated, as have the list of applicable modifiers for all services;
3. A DRG based system is being proposed for reimbursement of hospital charges for inpatient care, using the 2007 CMS relative weights multiplied by a base rate of \$8436.00. Any DRG's not included in the proposed schedule will be reimbursed at 75% of charge;
4. Changes are being proposed to the rules regarding implantables, i.e., implantables will be considered included in the DRG payment on inpatient care, and for outpatient care, implantables shall be paid separately at cost plus 10%;
5. A revised outlier payment rule is being proposed for inpatient hospital reimbursement;

6. Adoption of the Medicare ASC Payment Groups is being proposed for classifying payment of facility fees for ambulatory surgery;
7. The General Rules provided in the Fee Schedule have been reformatted and rearranged to provide more logical reference and layout;
8. The definition of “medical necessity” has been changed;
9. Changes to the applicable billing forms are being proposed to incorporate the most recent CMS billing forms;
10. Changes to other definitions, including but not limited to “consultation”, “follow up days”, “maximum reimbursement allowance”, “primary procedure”, and “usual and customary”, are being proposed;
11. Additions to the recognized list of providers are being proposed;
12. A new “Coding Standard” is being proposed which would be based on the most current version the CPT book, ASA Relative Value Guide, or HCPCS Level II codes, in effect at the time service is rendered;
13. An increase in the medical deposition fee from the current \$350.00 per hour/\$85.00 per quarter hour, to \$500.00 per hour/\$125.00 per quarter hour, is being proposed, along with rules regarding the amount of payment due, if any, in the event of cancellation of a deposition. A corresponding increase in the amount of Administrative Expense Fund reimbursement provided to claimants under Procedural Rule 18 is also being proposed;
14. Clarification of the accepted sources for impairment rating is being proposed;
15. Clarification of the rules relating to out-of-state medical treatment is being proposed;
16. Provisions specifically addressing “Retrospective Review” of services, and services provided in good faith reliance on “Authorization Provided by Employer or Payer”, are being proposed;
17. Clarification of the rules regarding “Selection of Providers” for various services and supplies is being proposed;
18. Clarifications and additions to the rules related to “Billing and Reimbursement” are being proposed, including but not limited to changes to the “maximum reimbursement allowance (MRA)” definition, additions to the rule regarding “Separate Fee Contracts”, addition of a rule dealing with “Repricing Agreements”, incorporation of the National Provider Identifier (NPI), changes to the amount and extent of interest and penalty applicable to late billings or late payments, changes to the time periods established for billing and payment, changes to the requirements applicable to the explanation of review (EOR), and changes to the reconsideration process between payers and providers;

19. Changes to the rules related to the copying of medical records, and reimbursement therefor, are being proposed;

20. Changes to the “Dispute Resolution Rules” are being proposed to streamline and make more efficient the dispute resolution process within the Commission, and to eliminate the requirement that disputes be assigned to an Administrative Judge if not resolved by the Cost Containment Division. Consequences of failing to make a timely request for resolution of dispute are addressed in these proposed changes;

21. Changes to the Utilization Review Rules are being proposed to be more consistent with applicable utilization review statutes and other relevant agency regulations;

22. Changes mainly by way of clarification are being proposed to the rules related to the use of modifiers and code exceptions;

23. Changes mainly by way of clarification are being proposed to the rules applicable to Nurse Practitioners and Physician Assistants;

24. Changes are being proposed to the Pharmacy Rules in order to be consistent with provisions of the Mississippi Pharmacy Practice Act, and in addition, changes are being proposed with regard to the amount of reimbursement due for pharmaceutical services;

25. Changes are being proposed to the “Home Health Rules” with regard to the amount of reimbursement due for home health related services;

26. New rules related to Skilled Nursing Facilities are being proposed, including the establishment of a per diem rate of reimbursement;

27. Elimination of the “Fee Adjustment Rule” previously adopted by the Commission August 1, 2003 is being proposed;

28. Updates and clarifications are being proposed for the rules related to Evaluation and Management, including but not limited to “consultations”;

29. Updates and clarifications are being proposed for the rules related to Anesthesia, including but not limited to a 5% increase in the conversion factor, and provisions related to services performed a CRNA;

30. Updates and clarifications are being proposed for the rules related to the Pain Management, including but not limited to a 5% increase in conversion factor, changes to facility fee reimbursements, new rules relating to reimbursement for injection/destruction procedures, new multiple procedure reimbursement rules, pain pump reimbursement rules, rules for “diagnostic only” injections and procedures, the number and frequency of epidural and facet injections, a rule stating that only a licensed MD or DO may be reimbursed for pain management procedures, revision of the list of non-covered investigational procedures, rules regarding the use of discography, and rules regarding the management of patients undergoing treatment of chronic

pain by the use of opioids or other controlled substances;

31. Updates and clarifications are being proposed for the rules related to the Surgery Rules, including but not limited to changes to the multiple procedure reimbursement rules, changes to the billing and reimbursement rules as applied to use of the operating microscope, microsurgery, and the use of intervertebral biomechanical devices;

32. Minimal changes are being proposed for the rules related to Radiology;

33. Minimal changes are being proposed to the rules related to Pathology and Laboratory;

34. Minimal changes are being proposed to the rules related to Medicine Services;

35. Minimal changes are being proposed to the rules related to Physical Medicine;

36. A new Dental schedule is being proposed using the Current Dental Terminology code set as developed by the American Dental Association;

37. Changes to the rules related to Durable Medical Equipment, Orthotics, Prosthetics and other HCPCS codes are being proposed including but not limited to the inclusion of all HCPCS Level II codes, except the G8006-G9139, H0001-H2037 and T1000-T5999 series of codes.

II. Rule Making Process

In arriving at the decisions referenced above, the Commission contracted with Ingenix to provide investigative, research, data retrieval and analysis, rule drafting and review, and other consultation services in connection with the development of this fairly comprehensive update of our Medical Fee Schedule. Ingenix continues to fulfill duties for the Commission related to this contract.

In addition, and acting pursuant to section 71-3-115 of the Workers' Compensation Law, the Commission appointed a five-member Medical Advisory Board consisting of the following representatives to assist the Commission in its review and update of the Medical Fee Schedule: Dr. Craig Clark, Dr. David Gandy, Dr. Jeff Summers, Ms. Mary Curtis, Mr. Scott Smith. As required by the above statute, these members were chosen from Congressional Districts and were chosen because of their status as health care providers and their familiarity with the laws related to workers' compensation.

To further assist the Commission, Dr. David Crossley and Dr. James Poche were invited, and subsequently agreed, to serve on this Board in an *ex officio* capacity along with the members of the Commission itself.

Over the course of this project which began in earnest in May 2006, the Commission as well as the Advisory Board members have solicited a number of comments, ideas and suggestions from interested parties on an informal basis. The proposals being put forth represent the

culmination of many hours of looking, listening and analyzing untold amounts of information.

III. Public Comments and Hearing

Beginning May 4, 2007, and continuing for the statutorily required period of 25 days, or until May 29, 2007, the Commission will be welcoming written comments to these proposed rules. All written comments should be submitted on paper at least 8 ½ X 11 inches, with 12 pt. or larger font. Alternatively, comments may be submitted electronically only one of the following formats: standard internet email, Microsoft Word, Word Perfect, or PDF.

Please submit all written or electronically transmitted comments to the following person and address:

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In addition to written comments, the Commission will hold a public hearing at its offices on Lakeland Drive on Tuesday, May 29, 2007, beginning at 2:00 p.m. CST, and concluding at 4:00 p.m. that same day. Interested persons may attend and present their views in person. The timing and extent of public comments allowed at this hearing shall be determined by the Commission on the day of based on the number of persons in attendance.

IV. Availability of Proposed Rules

The proposed rules discussed herein may be downloaded from the Commission web site at www.mwcc.state.ms.us. Copies are also being furnished to the Secretary of State, and copies can be obtained for a nominal cost from the Workers' Compensation Commission.