



California Workers' Compensation Institute
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VIA E-MAIL: dwcrules@dir.ca.gov

July 6, 2016

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation, Legal Unit
Post Office Box 420603
San Francisco, CA 94142

**Re: 2nd 30-Day Comment - Proposed Modifications to the Hospital Outpatient
Departments and Ambulatory Surgical Centers Fee Schedule**

Dear Ms. Gray:

This 1st 15-day comment on modifications to proposed regulations regarding a Home Health Care Services Fee Schedule is presented on behalf of the members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 72% of California's workers' compensation premium, and self-insured employers with \$46B of annual payroll (28% of the state's total annual self-insured payroll).

Insurer members of the Institute include AIG, Alaska National Insurance Company, Allianz/Fireman's Fund Insurance Company, AmTrust North America, Chubb, CNA, CompWest Insurance Company, Crum & Forster, Employers, Everest National Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, Pacific Compensation Insurance Company, Preferred Employers Group, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, State Farm Insurance Companies, Travelers, XL America, Zenith Insurance Company, and Zurich North America.

Self-insured employer members include Adventist Health, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Santa Ana, City of Torrance, Contra Costa County Schools Insurance Group, Costco Wholesale, Country of Alameda, County of San Bernardino Risk Management, County of Santa Clara, Dignity Health, Foster Farms, Grimmway Enterprises Inc., Kaiser Permanente, Marriott International, Inc., Pacific Gas & Electric Company, Safeway, Inc., Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group; Southern California Edison, Special District Risk Management Authority, Sutter Health, University of California, and The Walt Disney Company.

Recommended revisions to the Proposed Home Health Care Services Fee Schedule Regulations are indicated by highlighted **underscore** and **strikeout**. Comments and discussion by the Institute are indented and identified by *italicized text*.

The California Workers' Compensation Institute supports the proposal to expand hospital outpatient department reimbursement beyond surgery and emergency department services using CMS' hospital outpatient prospective payment system rates. We agree that the proposed change should result in a less complex and more equitable reimbursement formula.

Section 9789.32. Applicability.

Recommendation

(e) For services rendered before September 1, 2014, only hospitals may charge or collect a facility fee for emergency room visits. Only hospital outpatient departments and ambulatory surgical centers as defined in Section 9789.30(p) and Section 9789.30(c) may charge or collect a facility fee for surgical services provided on an outpatient basis.

For services rendered on or after September 1, 2014 but before XXX XX, 2016 [Date amendment is filed with the Secretary of State. Date to be inserted by OAL.], only hospitals may charge or collect a facility fee for emergency room visits, Facility Only Services, and Other Services. Only hospital outpatient departments and ambulatory surgical centers as defined in Section 9789.30(~~ep~~) and Section 9789.30(c) may charge or collect a facility fee for surgical services provided on an outpatient basis. Facility fees are not payable to an ambulatory surgical center for any services that are not an integral part of a surgical service.

For services rendered on or after XXX XX, 2016 [Date amendment is filed with the Secretary of State. Date to be inserted by OAL.], only hospitals as defined in Section 9789.30(p) may charge or collect a facility fee for Hospital Outpatient Department Services rendered ~~to a hospital outpatient~~ on an outpatient basis and payable under the Medicare (CMS) HOPPS. Ambulatory surgical centers as defined in Section 9789.30(c) may charge or collect a facility fee for only surgical services or services that are an integral part of the surgical service provided on an outpatient basis and payable under the Medicare (CMS) HOPPS. Facility fees are not payable to an ambulatory surgical center for any services that are not an integral part of a surgical service. Only ambulatory surgical centers may charge or collect a facility fee for its services.

Discussion

The language identified by the Institute for deletion appears to be an error and replacement language has been provided.

Sincerely,

Stacy L. Jones
Senior Research Associate

SLJ/me

cc: George Parisotto, DWC Acting Administrative Director
CWCI Claims Committee
CWCI Medical Care Committee
CWCI Legal Committee
CWCI Regular Members
CWCI Associate Members