

- Policy & Procedure
- Take Note
- Milestones

State of California

DWCNewsline

Division of Workers' Compensation
Carrie Nevans, Acting Administrative Director

1515 Clay Street, 17th floor, Oakland, CA 94612 (510) 286-7100

Internet Web Page: <http://www.dwc.ca.gov>

Newsline No. 71-10
December 17, 2010

Notice of rulemaking for proposed changes to the Official Medical Fee Schedule

Updates related to ambulatory surgical center and spinal hardware fees

The Division of Workers' Compensation (DWC) has proposed amendments to the Official Medical Fee Schedule (OMFS) as part of its 12-point plan to help contain medical costs. Savings from these two proposals is expected to be \$59 million the first year and \$86 million per year thereafter. These savings may later be used in the process of updating the physician fee schedule.

The two proposals will revise facility fees subject to the hospital outpatient departments (HOPD) and ambulatory surgical center (ASC) fee schedule and will modify the inpatient hospital fee schedule related to when and how additional allowance is permitted for implantable spinal hardware used in complex spinal surgeries.

Formal notice of this rulemaking will be published in the California Notice Register on Dec. 24, 2010. A public hearing on the proposed regulations has been scheduled for:

Date: Jan. 25, 2011
Time: 10:00 a.m. to 5:00 p.m. or until conclusion of business
Place: Elihu Harris state office building auditorium
1515 Clay Street
Oakland CA 94612

Comments from members of the public on the proposed regulations will be accepted starting today through 5 p.m. on Jan. 25, 2011.

Labor Code section 5307.1 requires the OMFS for ASCs be based on the fee-related structure and rules of the Medicare program. DWC plans to revise the maximum allowable facility fee for services performed in an ASC setting by modifying the multiplier for facility fees to 100% of the Medicare hospital outpatient prospective payment system or 102% that includes an extra 2% reimbursement for high cost outlier cases. DWC proposes additional minor amendments to conform to the proposed change, update or clarify sections of the hospital outpatient departments and ASC fee schedule. The DWC proposes to adopt section 9789.39, which provides for updates to the federal regulation and federal register references made in the hospital outpatient departments and ASC fee schedule updates

by order of the administrative director, in order to conform to changes in the Medicare payment system as required by Labor code section 5307.1.

The proposed revision to the inpatient hospital fee schedule regulations provides for the following:

- Hospitals will have an annual choice in how they would be reimbursed for complex spinal surgery using implantable spinal hardware. Hospitals may choose between two alternatives:
 1. The standard hospital-specific MS-DRG reimbursement (1.2 x MS-DRG weight x hospital specific composite factor) plus an additional allowance for all 14 complex spinal surgery DRGs of either \$2,925 or \$625 (depending on the DRG) for hardware used in complex spinal surgery; or
 2. The alternative payment methodology will be a multiplier of the hospital-specific MS-DRG reimbursement, plus the documented paid cost of the spinal hardware used in complex spinal surgery, plus an additional 10% of the hospital's documented paid cost, net of immediate and anticipated price adjustments, not to exceed a maximum of \$250.00, plus any sales tax and/or shipping and handling charges actually paid. The multiplier will be 1.0 for discharges occurring in the first year of the revised fee schedule and 0.8 for discharges occurring on or after the effective date for the 2012 annual update. The hospital will be required to submit detailed documentation pertaining to the implanted spinal hardware costs accompanied with a certification attesting to the accuracy of the cost of the items.
- Hospitals seeking the alternative payment allowance (multiplier of the hospital-specific MS-DRG reimbursement plus documented paid cost of spinal hardware implant(s)) will be required to file a written election with the administrative director each year to be effective for one year.
- A new section 9789.25 is proposed, which provides for updates to the federal regulation, federal register, and payment impact file references made in the inpatient hospital fee schedule updates by order of the administrative director, in order to conform to changes in the Medicare payment system as required by Labor Code section 5307.1.
- To accommodate the proposed changes, minor amendments have been made to other subsections of the inpatient hospital fee schedule.
- The definition of "spinal hardware" has been amended for clarity.

The language of the two proposed regulations can be found on the DWC Web site at <http://www.dir.ca.gov/dwc/dwcRulemaking.html>.

These regulatory proposals move the DWC closer to completing its 12-point plan to help contain medical costs. Four of the 12 points (tightening treatment guidelines, providing an option to keep medical care in a network, simplifying medical provider network rules and improving medical cost reporting) have been completed. A fifth point (implementing electronic billing) is very near completion.

With implementation of these two regulations, seven of the 12 points will be complete. DWC has also begun work on its plan to streamline utilization review processes and requests for medical authorization.

The final points of the plan, including updating the physician fee schedule, creating pharmacy networks and considering creation of a drug formulary, will be reviewed in the coming year.

###