

Home Health Care Services Fee Schedule Regulations
Title 8, California Code of Regulations
Division 1, Chapter 4.5
Subchapter 1 Administrative Director – Administrative Rules

Article 5.3 Official Medical Fee Schedule

§ 9789.90 Home Health Care - Definitions.

(a) ~~“CMS” means the Centers for Medicare and Medicaid Services, a division of the United States Department of Health and Human Services.~~

~~(b)~~ “(ba) “Domestic services” means tasks that assist the injured worker with instrumental activities of daily living (IADLs) and include: housekeeping, laundry, food preparation, shopping, etc.

~~(b)~~ “(Aeb) “HCPCS” means the *Healthcare Common Procedure Coding System*, published by the Centers for Medicare and Medicaid Services (CMS), a division of the United States Department of Health and Human Services.

~~(b)~~ “(bdc) “Home care organization” means a business entity engaged in providing non-medical personal care and domestic home health care services, as those terms are defined under the “home health care services” topic in the Medical Treatment Utilization Schedule (MTUS), to injured workers in the home, including personal care and chore services, that must comply with the Home Care Services Consumer Protection Act of 2013 and be is licensed as compliant with the Home Care Services Consumer Protection Act of 2013 (Health & Safety Code §§ 1796.10-1796.63) by the California Department of Social Services.

~~(d)~~ “(d) “Home health aide” means an aide who has successfully completed a state-approved training program, is employed by a home health agency or hospice program, and provides personal care services in the patient’s home.

~~(e)~~ “(efc) “Home health care agency” means a business entity engaged in providing home health care services that must be is licensed by the California Department of Public Health and meet one of the following requirements is either: be (1) Medicare-certified by (the Centers for Medicare and Medicaid Services (CMS)); or (2) be accredited as a home health care agency by the Community Health Accreditation Partner (CHAP) or the Joint Commission on Certification and Accreditation.

~~(e)~~ “(def) “Home health care services” includes the provision of medical and other health care services, including personal care and domestic care-chore services, to the injured worker, in their

place of residence, ~~pursuant to~~ as set forth in the “home health care services” topic of the Medical Treatment Utilization Schedule (MTUS).

~~(e.g)~~ “Medical Treatment Utilization Schedule,” or “MTUS,” is the analytical framework for the evaluation and treatment of injured workers that incorporates evidence-based, peer reviewed, nationally recognized standards of care adopted by the administrative director pursuant to Labor Code section 5307.27.

~~(e) “IHSS” means In Home Supportive Services, a program of the State of California, the provisions of which are set forth in California Welfare & Institutions Code sections 12300-12330 except that the maximum hours provision of this program, set forth in Welfare & Institutions Code section 12300, subdivision (h)(3), can be exceeded for an injured worker based upon a showing of medical need, if reasonably required to cure or relieve the injured employee from the effects of his or her injury and prescribed by a licensed physician or surgeon, in accordance with Labor Code section 4600, subdivision (h).~~

~~(f) “Medicare” means a program of the United States government that provides payment for health care to elderly and disabled persons. The Centers for Medicare and Medicaid Services division of the United States Department of Health and Human Services provides this benefit program to eligible members of the public.~~

(h) “Personal care services” means tasks that assist the injured worker with activities of daily living (ADLs) and include: bathing, dressing, toileting, transferring bed/chair, etc.

Authority: Sections 133, 4603.5, 5307.1, 5307.3 and 5307.8, Labor Code. Reference: Sections 4600, 5307.1, 5307.11, 5307.27 and 5307.8 and 5307.11, Labor Code, Sections 1796.10-1796.63, Health & Safety Code.

§ 9789.91 Home Health Care – Eligibility for Services & Payment.

~~(a) Home health care services shall be provided as medical treatment only if reasonably required to cure or relieve the injured worker from the effects of his or her injury and prescribed by a licensed physician and surgeon, in accordance with Labor Code section 4600, subdivision (h) and the Medical Treatment Utilization Schedule. Unless otherwise indicated in this section, all home health care services rendered under Labor Code section 4600 shall be paid for under the provisions of sections 9789.92 and 9789.93 of this article.~~

~~(b) Home health care services are subject to the utilization review and independent medical review processes set forth in Labor Code sections 4610 and 4610.5, et seq. An employer shall not be liable for home health care services provided more than fourteen (14) days prior to the~~

date of the employer's or its claims administrator's receipt of the treating physician's prescription or request for authorization for home health care services.

~~(c) At the outset of care, an in-home assessment of the injured worker's need for home health care shall be performed by a qualified registered nurse. Assessments of an injured worker's need for home health care shall be performed using CMS's OASIS (Outcome and Assessment Information Set), a group of standard data elements used by CMS to assess patients' needs for home health care services, which is incorporated by reference (<http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/OASIS-C1-DataSets.html>). When rehabilitation therapy service (speech language pathology, physical therapy, or occupational therapy) is the only service requested by the treating physician for the injured worker, the initial assessment may be made by the appropriate rehabilitation skilled professional (speech language pathologist, physical therapist, or occupational therapist).~~

~~(cd) Neither an employer nor their insurer its claims administrator shall not be liable for any home health care services provided by the injured worker's spouse or other member of the injured worker's household, or other entity, if those home health care services were provided to the injured worker prior to the industrial injury to the extent the services had been regularly performed in the same manner and to the same degree by the injured worker's spouse or other member of the injured worker's household prior to the date of injury. In addition, an employer or their insurer shall not be liable for home health care services provided more than fourteen (14) days prior to the date of the employer's or insurer's receipt of the physician's prescription or request for authorization for home health care services, pursuant to Labor Code section 4600, subdivision (h).~~

(de)(1) Neither an employer nor its claims administrator shall be liable for home health care services provided by family caregivers or individuals who are not employed by a home care organization or a home health care agency, except as provided in subsection (d)(2). However, a

(2) ~~Either an employer or its~~ A claims administrator and an injured worker may agree that the injured worker may use, and the employer or its ~~insurer~~ claims administrator ~~claims administrator~~ will pay for, an unregistered provider (who is not employed by a home care organization or home health care agency and who may be a family member of the injured worker), if the individual has the necessary skills to provide the home health care services ~~needed~~ required by the injured worker and no employment relationship shall be established between the employer or its claims administrator and the provider. In such cases, payment shall be provided directly to the injured worker, who will be responsible for paying the provider. Such agreements may also include a provision to waive the requirements of subsection 9789.92(c).

Authority: Sections 133, 4603.5, 5307.1, 5307.3 and 5307.8, Labor Code. Reference: Sections 4600, 5307.1, 5307.11 ~~5307.8~~ and ~~5307.844~~, Labor Code.

§ 9789.92 Home Health Care – Payment Methodology & Billing Rules.

(a) The maximum allowable amounts (MAA) for home health care services are set forth in section 9789.93, Table A. ~~In no case shall the MAA be lower than the then-current state or local minimum wage, whichever is higher.~~ The California workers' compensation home health care fee schedule operates on a fee for service basis.

(b)(1) Unless an hourly or per diem rate is listed in section 9789.93, Table A, Sservices shall be billed in fifteen (15) minute increments, with one unit of time being equal to fifteen (15) minutes. Except in the case where an hourly or per diem billing code is used, a visit by a home health care provider shall be for a minimum of four (4) units, with additional time beyond the four (4) unit visit billed in fifteen (15) minute increments. ~~The four units may be for different services performed within the visit. For example, if only one service is performed during the visit, the provider would bill the four minimum units to the billing code for that service. However, if two, three or four services were provided during the initial hour of the visit, the provider would bill two, three or four codes, respectively, in relative proportion to the time spent on each service. No more than four services may be billed during a one hour visit.~~

(2) With respect to HCPCS billing codes G0156 and S5125 only, a visit by a home health care provider shall be for a minimum of eight (8) units per code, with additional time beyond the eight (8) unit visit billed in fifteen (15) minute increments.

(23) A per diem billing code is for a period consisting of an eight (8)-hour shift and must be used whenever the incremental rate for the number of hours worked in a day providing a particular service exceeds the per diem rate. For example, if five hours of nursing care at the incremental rate exceeds the per diem rate for nursing care, providers must use the per diem code rather than the 15-minute incremental billing code.

(4) Neither an employer nor its claims administrator shall be liable for a provider's time spent traveling to and from an injured worker's home to provide home health care services.

~~(3) Providers shall bill using the CMS 1500 form, which can be downloaded at the following link (<http://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/CMS-Forms-Items/CMS1188854.html>), or the CMS 1450/UB-04 form which can be downloaded at the following link (<http://www.nubc.org/subscriber/index.dhtml>).~~

(c) Home health care services shall be billed and paid for under the timeframes and rules set forth in Labor Code sections 4603.2 and 4603.3, and the rules for medical treatment billing and payment set forth in Article 5.5.0, sections 9792.5.0 through 9792.5.15, of Title 8 of the California Code of Regulations.

(de) Nothing in this section precludes an agreement for payment of home health care services, made between an employer or its claims administrator and the provider ~~and the insurer or claims administrator~~, regardless of whether such payment is less than, or exceeds, the fees set forth in this section.

Authority: Sections 133, 4603.5, 5307.1, 5307.3 and 5307.8, Labor Code.

Reference: Sections 4600, 4603.2, 4603.3, 5307.1, 5307.11 ~~5307.8~~ and ~~5307.811~~, Labor Code.