| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
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| Medical Billing and Payment Guide – Page 35 | Commenter recommends that the Division reference the most recent update to the National Council for Prescription Drug Programs (NCPDP) instruction manual for the Workers' Compensation/Property and Casualty Universal Claim Form (WC/PC UCF). Commenter notes that the Division's proposed amendments to the Guide reference version 1.3 of the NCPDP Manual Claim Forms Reference Implementation Guide; however, just recently NCPDP published a version 1.4 (July 2015) of that document. Commenter recommends the table in the Guide on page 35 be updated to reflect this newest version. | Kevin C. Tribout<br>Executive Director<br>Government Affairs<br>Helios<br>July 27, 2015<br>Written Comment | DWC is looking into this most recent update and may address this matter in a subsequent rulemaking. | None. |
| 14006 – Form 5021 – Doctor's First Report of Occupational Injury or Illness<br><br>9785.2 – Form PR2 – Primary Treating Physician Progress Report | Commenter notes that there are two aspects to the proposed regulations:<br><br>1. Bringing California workers' compensation law in line with federal laws requiring the use of ICD-10<br>2. Revising California's workers' compensation <u>medical reporting forms</u> to achieve compliance with the federal ICD-10 mandate.<br><br>Commenter opines that these are | Alan C. Jenkins<br>Workers' Compensation Consultant<br>Kaiser On-the-Job<br>The Permanente Medical Group<br>July 31, 2015<br>Written Comment | As to item 1, acknowledged.<br><br>As to item 2, these concerns were raised in the initial 45-day comment period and addressed there. When Kaiser began programming for the anticipated transition to ICD-10, there was no reason to believe that DWC would not update these forms, since they explicitly mention ICD-9. Following commenter's logic, DWC should never update its | None. |

| ICD-10 | RULEMAKING COMMENTS<br>15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | separate and distinct changes and therefore need to be considered independently.<br><br>As to item 1, commenter has no objection whatsoever to the adoption of ICD-10 as a standard for the reporting of medical diagnoses and is committed to full implementation on October 1, 2015, as required by law. Commenter states that his organization will commence transmission of ICD-10 diagnoses on the current Form 5021 (DFR) and Form PR2 (Progress Report) for all industrial injury care effective 10/01/2015 and he requests acknowledgment by the DWC that this fulfills their obligation under State regulations.<br><br>**Commenter's objection is to item 2 listed above. Commenter recognizes the need to make certain changes to the forms to accommodate ICD-10; however, he finds the extent of the proposed revisions to be impractical and unnecessary.** Commenter opines that these changes place an added and | | forms because providers that maintain their own versions of the forms will incur costs in updating their versions. The Form 5021 has not been updated since 1992 and the other forms being updated have not been changed since 2005. While it is not the intent of DWC to impose hardships or costs on providers, DWC does need to update its reporting forms from time to time. The 12 spaces for ICD-10 codes corresponds to the 12 spaces now required on the CMS-1500 billing form to accommodate up to 12 ICD-10 diagnosis codes. The grace period language has been added to the regulations to allow providers additional time to adjust to the changes being made. | |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | unreasonable burden on medical providers already charged with the responsibility to understand and implement ICD-10. Commenter discusses implementation and recommends the following modifications:<br><br>• The assertion by the DWC that the regulations "*do not impose any additional costs on impacted entities"* appears to ignore the costs, time and resources necessary to programmatically create forms to accommodate the formatting changes proposed in the regulations. Our organization, which produces 7,000 DFRs and 23,000 PR2s per month statewide, already has spent nearly two years in development, programming and testing system enhancements to accommodate ICD-10 coding, predicated on the <u>existing</u> DWC report formats. We estimate an additional six months to program and test the proposed new forms, making it | | | |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | impossible to meet our legal obligation to implement ICD-10 by October 1st as currently planned<br><br>Also to be considered is the burden placed on our customers in the Payer community with whom we exchange data electronically and who must make adjustments to their systems to accommodate substantial changes in the format of medical reports.<br><br>• Our recommendation is to remove the numeric designation ("9" or "10") from the field label, allowing either old or new codes to be displayed and giving medical providers the ability to retain existing forms with only minimal alteration. The addition of space for 12 ICD codes represents waste of paper, ink, etc. because all field labels will have to print each time a form is printed, | | | |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | regardless of the number of codes actually recorded. A better solution is to allow providers to print additional codes and diagnoses on the reverse and/or to allow the form to expand as needed to accommodate the number of codes actually used.<br><br>• For the Primary Treating Physician's Progress Report (PR2), removing the -9 in ICD-9 and simply not printing the patient's SSN in the field provided would satisfy the stated purpose of the regulations.<br><br>**Commenter recommends that the DFR and PR2 formatting changes be delayed and integrated with the design of forms that facilitate electronic submission. This can occur after, and independent of, the ICD-10 transition.** | | | |
| 9785<br>14003 | Commenter notes that the proposed amendment is in reaction to the grace period which CMS recently announced. Commenter has two | Keith T. Bateman<br>Property Casualty Insurers<br>August 3, 2015 | As the Commenter notes, the most recent guidance from CMS was issued on July 31, 2015, clarifying its prior | None. |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | concerns with the proposed amendatory language. First, commenter opines that it is too open-ended. Commenter urges the Department to adopt the CMS approach of requiring that at least the first three digits of the ICD-10 be correct (see the July 31, 2015 version of CMS' "Clarifying Questions and Answers Related to the July 6, 2015 CMS/AMA Joint Announcement and Guidance Regarding ICD-10 Flexibilities"). Commenter states that his concern is that if there is no requirement of some showing of a good faith effort to properly code, some providers may use the grace period to "game" their reporting. Second, commenter opines that the DWC adds to the confusion by allowing providers from October 1, 2015 to December 31, 2015 to use either Revision 4 or 5 of Form 5021. Commenter states that the use of version 4 is incompatible with ICD-10 coding because it only provides enough space for ICD-9 codes and does not mention ICD-10 coding at all. Yet, the providers are supposed to be using ICD-10 on or after October 1, 2015. | Written Comment | guidance issued on July 6, 2015. The language regarding ICD-10 coding errors not being a sole basis for denying a medical treatment or medical-legal bill was made to be non-specific enough to accommodate further guidance from CMS on this issue.<br><br>With respect to the second concern, DWC disagrees. The grace period for forms simply gives providers the option to use either form for a short period of time. This gives providers who maintain their own electronic versions of the forms more time to complete their programming process to accommodate the new forms. All providers are able to use the new form on October 1, 2015. Providers who continue to use the older versions of the forms during the transition period must still use ICD-10 coding on the older versions of the forms. | |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| 9785 | Commenter recommends the following revised language:<br><br>(e)(1) ….. For dates of service on or after October 1, 2015, use Form 5021 (Rev. 5 2015). Although ICD-10 coding is required on or after October 1, 2015, ~~until~~ for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on ~~an error in the provider's citation of~~ the level of specificity of the ICD-10 diagnosis code(s) used. ~~Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.~~<br><br>(f)(8) …. For dates of service prior to October 1, 2015, use Form PR-2 (Rev. 06-05). For dates of service on or after October 1, 2015, use Form PR-2 (Rev. 2015). Although ICD-10 coding is required on or after October 1, 2015, ~~until~~ for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on ~~an error in the provider's citation of~~ the level of specificity of the ICD-10 diagnosis | Stacy L. Jones<br>Senior Research Associate<br>CWCI<br>August 3, 2015<br>Written Comment | Agree as to suggested non-substantive syntax changes in section (e)(1), except as to the striking of the last two sentences. DWC disagrees that allowing providers to use the prior versions of the forms for the transition period will cause confusion. The grace period for forms simply gives providers the option to use either form for a short period of time. This gives providers who maintain their own electronic versions of the forms more time to complete their programming process to accommodate the new forms. All providers are able to use the new form on October 1, 2015. Providers who continue to use the older versions of the forms during the transition period must still use ICD-10 coding on the older versions of the forms. | Revise subdivision (e)(1) to read as follows: …<br>Although ICD-10 coding is required on or after October 1, 2015, ~~until~~ for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the ~~provider's citation of~~ the level of specificity of the ICD-10 diagnosis code(s) used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.<br><br>Revise subdivision (f)(8) to read as follows: … |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | code(s) used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.<br><br>(h)…. For dates of service prior to October 1, 2015, use Form PR-3 (Rev. 06-05) or PR-4 (Rev. 06-05), as applicable. For dates of service on or after October 1, 2015, use Form PR-3 (Rev. 2015) or PR-4 (Rev. 2015), as applicable. Although ICD-10 coding is required on or after October 1, 2015, until for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the level of specificity of the ICD-10 diagnosis code(s) used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.<br><br>Commenter recommends revising the language stipulating the twelve month grace period for high levels of ICD-10 specificity coding. While the proposed modifications do incorporate | | | Although ICD-10 coding is required on or after October 1, 2015, until for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the level of specificity of the ICD-10 diagnosis code(s) used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.<br><br>Revise subdivision (h) to read as follows: …. Although ICD-10 coding is required on or after October 1, 2015, until for a |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | the grace period defined by the Centers for Medicare & Medicaid Services (CMS), the modified language introduces ambiguity and confusion. Beginning October 1, 2015 providers must use ICD-10 codes when submitting bills to Medicare; Medicare has announced that their rules related to the level of specificity of the ICD-10 codes will be relaxed and providers will receive payment as long as they are using an ICD-10 code that is in the correct family under the ICD-10 coding structure. (see attached CMS letter to providers dated 7/07/15)<br><br>Commenter also recommends striking the language that allows a provider to submit either version of form 5021 after October 1, 2015 as this language implies that a provider may use either ICD-9 or ICD-10. Form 5021 (Rev. 4 1992) requires ICD-9 and form Rev. 5 2015 requires ICD-10. Stating that either form can be used until January 1, 2016 will result in providers using ICD-9 codes for services rendered after October 1, 2015.<br><br>Similarly the language that allows a provider to submit either version of | | | twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in ~~the provider's citation of~~ the level of specificity of the ICD-10 diagnosis code(s) used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form. |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | forms PR-2, PR-3 or PR-4 should be stricken so that only the newer versions are submitted for services on or after October 1, 2015. | | | |
| 14003 | Commenter recommends the following revised language:<br><br>(c) The reports required by this Section shall be made on Form 5021, Rev. 54, Doctor's First Report of Occupational Injury or Illness (sample forms may be secured from the Division), upon a form reproduced in accordance with Section 14007, or by use of computer input media prescribed by the Division and compatible with the Division's computer equipment. However, reports may be submitted on Revision 4 of Form 5021 for dates of service prior to October 1, 2015. Although ICD-10 coding is required on or after October 1, 2015, until for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the level of specificity of the ICD-10 diagnosis code(s) used. Providers may use either version of the form until December 31, 2015. As | Stacy L. Jones<br>Senior Research Associate<br>CWCI<br>August 3, 2015<br>Written Comment | Agree as to suggested non-substantive syntax changes in subdivision (c), except as to the striking of the last two sentences. DWC disagrees that allowing providers to use the prior versions of the forms for the transition period will cause confusion. The grace period for forms simply gives providers the option to use either form for a short period of time. This gives providers who maintain their own electronic versions of the forms more time to complete their programming process to accommodate the new forms. All providers are able to use the new form on October 1, 2015. Providers who continue to use the older versions of the forms during the transition period must still use ICD-10 coding on the older versions of the forms. | Revise subdivision (c) as follows: …….<br>Although ICD-10 coding is required on or after October 1, 2015, until for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the level of specificity of the ICD-10 diagnosis code(s) used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form. |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
|---|---|---|---|---|
| | ~~of January 1, 2016, providers must use the 2015 version of the form.~~<br><br>Based on the rationale provided in her recommendations for §9785 subsections (e)(1), (f)(8) and (h), commenter recommends that the language allowing either versions of Form 5021 should also be stricken from §14003. | | | |
| General Comment | Commenter opines that it is in the best interests of the system overall to allow providers a grace period of several months' duration before requiring a payor to deny a bill outright that is submitted post-10/1 that is still utilizing ICD-9 codes:<br><br>1. Commenter's organization maintains one of the largest amalgamations of networked medical providers in the State of California. Among her organization's 64,483 currently contracted providers, the vast majority provide services not only to Workers' Compensation patients, but also provide services to Medicare recipients, Medicaid recipients, auto policyholders, etc. However, nearly 5% of her organization's contracted providers *restrict their practices* | Lisa Anne Forsythe<br>Senior Consultant<br>Coventry Workers' Compensation Services<br>August 3, 2015<br>Written Comment | Regarding point 1, no revisions have been suggested.<br><br>Regarding point 2, DWC disagrees. For reasons of system-wide integrity and consistency, there needs to be a uniform code set as of October 1, 2015, consistent with the action that has been taken by CMS.<br><br>With respect to point 3, as of October 1, 2015, ICD-10 codes will need to be used exclusively on the CMS-1500 form for reasons described in response to point 2, above. | None. |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
| --- | --- | --- | --- | --- |
| | *entirely to the treatment of Workers' Compensation patients*. Commenter states that it is specifically these types of providers that are most at risk for lack of readiness for ICD-10 conversion in October. Among the Comp-only providers, chiropractors and acupuncturists, as well as dental-related providers, make up the majority of the service providers, with a sizeable percentage of Oral/Maxillofacial Surgery providers included as well. These smaller providers are less likely to be technologically savvy (and/or aligned with CMS) and more likely to be adversely impacted by strict enforcement of the ICD-10 transition. They are also least likely to be able to weather a significant and sudden increase in payment cycles associated with rejected bills.<br>2. Many states have chosen to either not address the ICD-9/ICD-10 issue, or rather, not address the issue of what a payor must do when encountering a bill post-10/1-deadline that is not coded using ICD-10. As stated in our July testimony, we would prefer to be able to allow the bills to process normally under the prior ICD-9 | | | |

| ICD-10 | RULEMAKING COMMENTS 15 DAY COMMENT PERIOD | NAME OF PERSON/ AFFILIATION | RESPONSE | ACTION |
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| | payment schema, rather than reject the bills outright (forcing a reevaluation/Second Bill Review situation that is costly for Coventry and potentially detrimental to specific providers' payment cycles in the short term).<br>3. While commenter appreciates the Division's modification to the physician reporting forms (such as the PR-2) to allow for use of both the new and old versions in parallel for a grace period, commenter also requests parity with respect to leniency insofar as the CMS-1500 is concerned as well. | | | |