

Notice of Rulemaking Hearing

Tennessee Department of Labor and Workforce Development
Division of Workers' Compensation

There will be a hearing before the Tennessee Department of Labor and Workforce Development, Division of Workers' Compensation, to consider the promulgation of new rules pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-204 and 50-6-204. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204, and will take place in the First Floor Conference Room of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 a.m. CDT on the 28th day of August, 2007.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Labor and Workforce Development, Division of Workers' Compensation, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department's ADA Coordinator, Mr. Jewel Crawford, at Andrew Johnson Tower, 8th Floor, 710 James Robertson Parkway, Nashville, Tennessee 37243-0655 and (615) 741-8805.

For a copy of the entire text of this notice of rulemaking hearing contact: E. Blaine Sprouse, Tennessee Department of Labor and Workforce Development, Division of Workers' Compensation, Andrew Johnson Tower, Second Floor, 710 James Robertson Parkway, Nashville, TN 37243-0661, (615) 253-8937.

Substance of Rule Amendments and New Rule

Chapter 0800-02-17
Medical Cost Containment Program

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Paragraph (80) of Rule 0800-02-17-.03 Definitions is amended by deleting the phrase "eighty-five percent (85%)" and replacing it with the phrase "eighty percent (80%)" so that as amended the subparagraph shall read:

- (80) "Usual and customary" means eighty percent (80%) of a specific provider's average bills to all payers for the same procedure or service.

Authority: T.C.A. §§ 50-6-204 and 50-6-233

Subparagraphs (a) of paragraph (1) of Rule 0800-02-17-.20 Utilization Review is amended by deleting the existing subparagraph and replacing it so that as amended the new subparagraph (a) shall read:

- (a) Requirements contained in this Rule pertain to Utilization Review activity as defined by Tenn. Code Ann. § 50-6-102(18) (Repl. 2005) with respect to

services by a provider for health care or health related services furnished as a result of a compensable injury, illness or occupational disease arising out of and in the course of employment. The Division's Utilization Rules, Chapter 0800-2-6, provide detailed specifics regarding Utilization Review and must be consulted as they are incorporated in this Rule as if set forth fully herein. Notwithstanding any other provision in this Chapter which may be to the contrary, this Rule is intended to merely supplement Chapter 800-2-6 on Utilization Review and does not in any way displace the Utilization Review Rules, Chapter 0800-2-6.

Subparagraph (d) of paragraph (2) of Rule 0800-02-17-.20 Utilization Review is amended by deleting the number "\$5,000.00" at the end of the subparagraph and replacing it with the number "\$10,000.00", so that as amended the new subparagraph (d) shall read:

- (d) Utilization review shall be conducted in each case in which the cumulative medical costs exceed \$10,000.00.

Subparagraphs (e) through (l) of paragraph (2) of Rule 0800-02-17-.20 Utilization Review are amended by deleting them in their entirety.

Authority: T.C.A. §§ 50-6-204 and 50-6-233.

Substance of Proposed New Rule

0800-02-17-.25 Impairment Ratings-Evaluations and in Medical Records

- (1) Reimbursement for a permanent impairment evaluation shall be limited to a maximum amount of \$500.00. This is a maximum, all-inclusive fee and there shall be no additional fees allowed to the physician for such items as an office visit, diagnostic testing, or any other additional service.
- (2) All permanent impairment ratings shall be based on the applicable edition of the American Medical Association Guide to the Evaluation of Permanent Impairment ("AMA Guides"). The Administrator of the Division shall determine the date on which the most recent edition of the AMA Guides became effective to serve as the basis for rendering all permanent impairment evaluations under the Workers' Compensation Law.
- (3) In any request for medical records under Tenn. Code Ann. § 50-6-204, a physician or hospital ("provider") shall include a medical or anatomical rating if such record is available. A provider shall not charge any additional fee or any separate cost for providing the impairment rating as a part of a request for medical records.
- (4) Any violation of this Rule, 0800-02-17-.25, shall constitute a violation of this Chapter, 0800-02-17, and the Medical Fee Schedule Rules, Chapter 0800-2-18, and shall subject the violator to any and all penalties available under the Medical Fee Schedule Rules, including but not limited to a civil penalty of up to \$10,000.00 per violation.

Authority: T.C.A. §§ 50-6-204, 50-6-233 and 50-6-246.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of June, 2007. (FS 06-35-07; DBID 663)