

Rulemaking Hearing Rules
Tennessee Department of Labor and Workforce Development
Division of Workers' Compensation

Rule Amendments and New Rule

Chapter 0800-02-17
Medical Cost Containment Program

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0800-2-17-.03 Definitions

Paragraph (80) of Rule 0800-02-17-.03 Definitions is amended by deleting the phrase "eighty-five percent (85%) of a specific provider's average charges to all payers" and replacing it with the phrase "eighty percent (80%) of a specific provider's billed charges" so that as amended the new subparagraph shall read:

- (80) "Usual and customary" means eighty percent (80%) of a specific provider's billed charges.

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.

New Rule

0800-2-17-.25 Impairment Ratings-Evaluations and in Medical Records

- (1) Reimbursement for a permanent impairment evaluation shall be limited to a maximum amount of \$250.00. This is a maximum fee for the impairment rating for a patient previously treated by the physician. No additional reimbursement shall be allowed for an office visit. This rule is not applicable to independent medical examinations (“IME”) or impairment ratings rendered as part of an IME. A physician who believes additional diagnostic testing or services are required before an impairment rating can be assessed must request prior authorization for completion of such tests or services from the Division’s Medical Director in order to be eligible for additional reimbursement for such testing or services.
- (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, at the Commissioner’s sole discretion, and may subject the violator to any and all penalties available under the Medical Fee Schedule Rules and the Act, 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 rulemaking hearing rules set out herein were properly filed in the Department of State on the 20th day of December, 2007, and will become effective on the 4th day of march, 2008. (FS 12-25-07; DBID 2798)

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

1. Name of Board, Committee or Council: Department of Labor and Workforce Development, Division of Workers’ Compensation.

2. Rulemaking hearing date: August 28, 2007.

3. Types of small businesses that will be directly affected by the proposed rules: Utilization Review Agents, Hospitals, Ambulatory Surgical Treatment, Centers, Rehabilitation Treatment Facilities, Non-Residential Treatment Facilities, Home Health Services, Physicians’ Practices and Outpatient Diagnostic Centers any other health care providers extending services to injured employees under the Tennessee Workers’ Compensation Act.

4. Types of small businesses that will bear the cost of the proposed rules: Utilization Review Agents, Hospitals, Ambulatory Surgical Treatment, Centers, Rehabilitation Treatment Facilities, Non-Residential Treatment Facilities, Home Health Services, Physicians' Practices and Outpatient Diagnostic Centers any other health care providers extending services to injured employees under the Tennessee Workers' Compensation Act.

5. Types of small businesses that will directly benefit from the proposed rules: All employers throughout the state of Tennessee operating small businesses required to carry workers' compensation insurance. Also small insurers may benefit as well.

6. Description of how small business will be adversely impacted by the proposed rules: It is estimated that the impact on any small businesses will be *de minimus*, that is miniscule.

7. Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed: None.

8. Comparison of the proposed rule with federal or state counterparts: No other similar rules exist in this state or on the federal level.