

DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF WORKERS' COMPENSATION

NOTICE OF PROPOSED RULE DEVELOPMENT

RULE: 69L-7.602  
RULE TITLE: Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule.

PURPOSE AND EFFECT: The proposed rule (which applies to dates of injury occurring on or after October 1, 2003) clarifies that an insurer must provide health care providers with prior notification of a decision to apply apportionment in the payment of reimbursement for medical services. The amendment provides that an insurer shall, at the time of authorization or following authorization but prior to the rendering of medical service(s), provide each health care provider with written or electronic notification of its decision to apply apportionment in the payment of reimbursement for medical service(s). Subsection (7) of the rule is deleted, as the penalty provisions are transferred to Rule Chapter 69L-24, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Notice Requirements to Health Care Providers by Insurers when Apportioning Payment of Reimbursement for Compensable Medical Service(s).

RULEMAKING AUTHORITY: 440.13(4), 440.15(3)(b), (d), 440.185(5), 440.525(2), 440.591, 440.593(5) F.S.

LAW IMPLEMENTED: 440.09, 440.13(2)(a), (3), (4), (6), (11), (12), (14), (16), 440.15(3)(b), (d), (5), 440.185(5), (9), 440.20(6), 440.525(2), 440.593 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, February 23, 2012 @ 10:00 A.M. to 11:00 A.M.

PLACE: 102, Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Eric Lloyd, Office of Medical Services, Program

Administrator, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street,

Tallahassee, Florida 32399-4232, (850) 413-1689 or Eric.Lloyd@myfloridacfo.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

**69L-7.602 Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule.**

(1) through (4) No Changes.

(5) Insurer Responsibilities.

(a) No Change.

(b) 1. At the time of authorization for medical service(s) or upon receipt of notification of emergency care, an insurer shall notify each health care provider, in writing, of data elements or supporting documentation that are necessary for reimbursement determinations that are in addition to the requirements of this rule and the applicable reimbursement manual.

2. This subparagraph applies to dates of injury occurring on or after October 1, 2003. At the time of authorization for medical service(s), or upon receipt of notification of emergency care, an insurer shall issue a written or electronic notice to each health care provider stating whether the insurer will, when paying reimbursement for the medical service(s) for the compensable injury, apportion out the percentage of need for the care attributable to a pre-existing condition pursuant to section 440.15(5), F.S. If the insurer decides to apportion out the percentage of need for the care attributable to the pre-existing condition after authorization and prior to the rendering of medical service(s), the insurer shall issue a written or electronic notice to each health care provider prior to the rendering of medical service(s), stating that it will apply such apportionment, pursuant to section 440.15(5), F.S., to the reimbursement for the authorized medical service(s). Compliance with this subparagraph is independent of and does not satisfy the insurer's notification requirement pursuant to rule 69L-3.012.

(c) through (v) No Changes.

(6) No Change.

~~(7) Insurer Administrative Penalties and Administrative Fines for Untimely Health Care Provider Payment or Disposition of Medical Bills.~~

~~(a) The Department shall impose insurer administrative penalties for failure to comply with the payment, adjustment, disallowance or denial requirements pursuant to Section 440.20(6)(b), F.S. Timely performance standards for timely payments, adjustments and payments, disallowances or denials, reported on Forms DFS F5-DWC 9, DFS F5-DWC 10, DFS F5-DWC 11 and DFS F5-DWC 90, shall be calculated and applied on a monthly basis for each separate form category that was received within a specific calendar month. Such insurer penalties shall be determined according to the penalty schedule in paragraph (7)(b) of this rule.~~

~~(b) Pursuant to Section 440.185(9), F.S., the Department shall impose insurer administrative fines for failure to comply with the submission, filing or reporting requirements of this rule. Insurer administrative fines shall be applied as follows:~~

~~1. Calculated on a monthly basis for each separate form category (Forms DFS F5-DWC-9, DFS F5-DWC-10, DFS F5-DWC-11 and DFS F5-DWC-90) received and accepted by the Division within a specific calendar month; and~~

~~2. Insurers are required to report all medical reports timely pursuant to paragraph (5)(c) of this rule. Insurers that fail to submit a minimum of 95% of all medical reports timely are subject to an administrative fine. Each untimely filed medical report which falls below the 95% requirement is subject to the following penalty schedule:~~

- ~~a. 1—30 calendar days late \$5.00;~~
- ~~b. 31—60 calendar days late \$10.00;~~
- ~~c. 61—90 calendar days late \$25.00;~~
- ~~d. 91 or greater calendar days late \$100.00.~~

~~3. Each medical report that does not pass the electronic reporting edits shall be rejected by the Division and considered not filed pursuant to paragraph (5)(c) of this rule. If the medical report remains rejected and not corrected, resubmitted and accepted by the Division for greater than 90 days, an administrative fine shall be assessed in the amount of \$100.00 for each such medical report. Rejected and not resubmitted medical reports will not be included in the 95% timely reporting requirement.~~

~~4. Untimely filed medical reports for a given month will be excluded from the administrative fine set forth in subparagraph (7)(b)3. above as falling within the performance standard between 100% and 95% in the following order:~~

- ~~a. Medical Reports filed 1—30 calendar days late; then~~
- ~~b. Medical Reports filed 31—60 calendar days late; then~~
- ~~c. Medical Reports filed 61—90 calendar days late; then~~
- ~~d. Medical Reports filed 91+ calendar days late.~~

*Rulemaking Authority 440.13(4), 440.15(3)(b), (d), 440.185(5), 440.525(2), 440.591, 440.593(5) FS. Law Implemented 440.09, 440.13(2)(a), (3), (4), (6), (11), (12), (14), (16), 440.15(3)(b), (d), (5), 440.185(5), (9), 440.20(6), 440.525(2), 440.593 FS. History—New 1-23-95, Formerly 38F-7.602, 4L-7.602, Amended 7-4-04, 10-20-05, 6-25-06, 3-8-07, 1-12-10, \_\_\_\_\_.*