

NOTICE OF PROPOSED RULE DEVELOPMENT

AGENCY FOR HEALTH CARE ADMINISTRATION

DIVISION OF HEALTH QUALITY ASSURANCE

RULE TITLE: Carrier Report of Health Care Provider Violations ~~Overutilization~~ and Initiation of Investigation

RULE NO: 59A-34 F.A.C.

PURPOSE AND EFFECT: The purpose of the proposed rule is to set forth the requirements for carriers to report health care provider violations and to initiate Agency investigation pursuant to s.440.13(8)(b), (11), Florida Statutes

SUBJECT AREA TO BE ADDRESSED: The Agency's Health Care Provider Compliance Review Process

SPECIFIC AUTHORITY: 440.591 Florida Statutes

LAW IMPLEMENTED: 440.13(8), 440.13(11), 440.13(13), Florida Statutes

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:

TIME AND DATE: December 4, 2007, 9:00 a.m. - noon

PLACE: 2012 Capital Circle S.E., Tallahassee, FL, 104-J Hartman Building

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS:

Anna Ohlson, Program Administrator, AHCA, Workers' Compensation Medical Services Unit, 200 East Gaines Street, Tallahassee, Florida 32399-4232

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

Chapter 59A-34 Carrier Report of Health Care Provider Violations ~~Overutilization~~ and Initiation of Investigation

RULE TITLE:	RULE NO:
59A-34.001	Definitions
59A-34.002	Carrier Report Form
59A-34.003	Supporting Documentation
59A-34.004	Timeliness of Carrier Report
59A-34.005	Notice of Deficiency
59A-34.006	Notice of Commencement of Investigation
59A-34.007	Provider Response
59A-34.008	Requests for Additional Information
59A-34.009	Agency Determinations

59A-34.001 Definitions.

(1) The terms “instance of overutilization” and “pattern or practice of overutilization” as used in this rule shall have the same definitions as applied in section 440.13(1)(k), F.S., and section 440.13(1)(o), F.S., respectively.

(2) As used in this rule, the term “electronic submission” shall mean submission on a compact disc (CD).

Specific Authority 440.591. Law Implemented 440.13(8) and 440.13(11). History New - -

59A-34.002 Carrier Report Form.

(1) The Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX), is hereby incorporated by reference into this rule. This form may be obtained on the Internet at <http://www.myfloridacfo.com/wc/forms.html> or by contacting the Agency at (850) 413-1613.

(2) The carrier shall use the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) to report a category of alleged health care provider violation to the Agency.

(3) A separate Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) shall be submitted for each category of health care provider violation alleged by the carrier.

(4) Any carrier submission pursuant to section 440.13(7)(b), F.S., is excluded from the provisions prescribed in section 59A-34.002(2) of this rule.

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11). History New - - 59A-34.003 Supporting Documentation.

(1) A Carrier Report of Health Care Provider Violations must include any and all documentation that supports the alleged violation by the health care provider contained in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX). Such documentation shall include, but is not limited to:

(a) Any medical records provided to any peer review consultant or independent medical examiner by the carrier, or by any entity acting on behalf of the carrier, for the purposes of evaluating the treatment rendered to the employee by the health care provider, for each date of service listed on the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX);

(b) Any report issued by a peer review entity or independent medical examiner relating to the alleged violations contained in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX);

(c) Any request(s) for authorization of treatment submitted by the health care provider to the carrier;

(d) Any carrier response to a health care provider's request for authorization of treatment;

(e) Any DFS-F5-DWC-25 forms submitted on behalf of the health care provider for date(s) of service listed in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX); and

(f) Any Explanation of Bill Review disallowing or adjusting payment to the health care provider based on a finding pursuant to s. 440.13(6), F.S.

(2) If any of the required documentation identified in section 59A-34.003(1)(a)-(f) is not included with the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX), the carrier must provide a written explanation as to the reason(s) the documentation was not included. The Agency may consider a written explanation from the carrier as satisfying its obligation to provide the required documentation.

(3) All records and documentation submitted to the Agency in support of the Carrier Report of Health Care Provider Violations must be by electronic submission. The carrier must include three (3) complete sets of records and documentation with each Carrier Report of Health Care Provider Violations. Only one (1) set of records and documents shall be contained on a single electronic submission.

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11) FS. History New - -
59A-34.004 Timeliness of Carrier Report.

The carrier shall submit a completed Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) and the required documentation to the Agency no later than 365 days after the issuance of the first Explanation of Bill Review to the health care provider that identifies an alleged category of health care provider violation. Failure to timely submit the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) shall result in the Agency issuing a Notice of Dismissal of the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX).

Specific Authority 440.591. Law Implemented 440.13(8) and 440.13(11). History New - -
59A-34.005 Notice of Deficiency.

(1) The Agency shall issue a Notice of Deficiency to a carrier that reports an alleged health care provider violation to the Agency, when such report does not include a completed Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) and the required

documentation. The Agency shall also issue a Notice of Deficiency for any Carrier Report of Health Care Provider Violations that identifies more than a single category of health care provider violation.

(2) A carrier shall have ten (10) calendar days from receipt of the Notice of Deficiency to cure the deficiency identified in the Agency's Notice of Deficiency. Failure to submit a completed Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) and the required documentation or to timely cure the deficiency shall result in the Agency issuing a Notice of Dismissal of the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX).

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11) FS. History New - - 59A-34.006 Notice of Commencement of Investigation.

Within thirty (30) days of receipt of a completed Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) and the required documentation, the Agency shall mail a notice to the health care provider and to the carrier listed on the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) that the Agency has received a Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX).

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11) FS. History New - - 59A-34.007 Provider Response.

(1) Within thirty (30) days of the health care provider's receipt of the Agency's notification of receipt of a Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX), the health care provider may submit a written response and documentation to the Agency disputing the alleged violations identified in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX). Such documentation may include, but is not limited to:

(a) Any medical records provided to any peer review consultant or independent medical examiner by the health care provider, or by any entity acting on behalf of the health care provider, for the purposes of evaluating the treatment rendered to the employee by the health care provider,

for each date of service listed on the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX);

(b) Any report issued by a peer review entity or independent medical examiner relating to the reported instance of overutilization identified on the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX);

(c) Any request(s) for authorization of treatment submitted by the health care provider to the carrier;

(d) Any carrier response to a health care provider's request for authorization of treatment; and

(e) Any DFS-F5-DWC-25 forms submitted on behalf of the health care provider for date(s) of service listed in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX).

(2) Unless specifically requested pursuant to section 59A-34.008 of this rule, any documentation received by the Agency after thirty (30) days of the health care provider's receipt of the Agency's notification of receipt of a Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX) shall be excluded from use in determining whether the health care provider engaged in violations identified in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX).

(3) All records and documentation submitted to the Agency by the health care provider in response to the Carrier Report of Health Care Provider Violations must be by electronic submission. The health care provider must include three (3) complete sets of records and documentation with each written response to the Carrier Report of Health Care Provider Violations. Only one (1) set of records and documents shall be contained on a single electronic submission.

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11). History New - -

59A-34.008 Requests for Additional Records

(1) The Agency may, at any time, request additional records or documentation from the carrier or the health care provider listed on the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX). The Agency must receive any additional records or documentation within thirty (30) days of the carrier's or health care provider's receipt of the request for additional records or documentation.

(2) Any additional records or documentation received by the Agency after thirty (30) days of the carrier's or health care provider's receipt of the request for additional records or documentation shall be excluded from use in determining whether the health care provider engaged in the violation identified in the Carrier Report of Health Care Provider Violations (AHCA Form 3160-XXXX).

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11) FS. History New - -

59A-34.009 Agency Determination

The Agency shall issue a determination on whether the category of alleged health care provider violation listed on the Carrier Report of Health Care Provider Violations is substantiated.

Specific Authority 440.591 FS. Law Implemented 440.13(8), 440.13(11) FS. History New - -