

ORIGINAL: 2542

Gelnett, Wanda B.

From: Wunsch, Eileen [ewunsch@state.pa.us]
Sent: Tuesday, July 11, 2006 7:48 AM
To: Henneman, Karla
Cc: Kupchinsky, John; Kuzma, Thomas J. (GC-LI); Howell, Thomas P. (GC-LI)
Subject: FW: Proposed Rulemaking Comments

KARLA,

These need to be printed, distributed and logged in. Thanks.

Eileen K. Wunsch, MS, CPIW, ARM
Chief, Health Care Services Review
Bureau of Workers Compensation
Department of Labor & Industry
1171 South Cameron Street
Harrisburg, PA 17104
Phone: 717 772-1912
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ewunsch@state.pa.us

-----Original Message-----

From: Sandra McCuen [mailto:sandra.mccuen@verizon.net]
Sent: Monday, July 10, 2006 3:21 PM
To: Eileen Wunsch
Cc: Carole Galletta; Kent Culley; Gerri Grzybek
Subject: Proposed Rulemaking Comments

Hi Eileen,

Attached are revised comments from the PPTA.

See you in August.

Sandy

Sandra K McCuen, PT
Reimbursement Specialist, PPTA
Phone: 717-774-1872
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7/12/2006

July 10, 2006

Eileen K. Wunsch, MS, CPIW, ARM
Chief, Health Care Services Review
Bureau of Workers Compensation
Department of Labor & Industry
1171 South Cameron Street
Harrisburg, PA 17104

Dear Eileen,

After attending the Bureau meeting on June 29, 2006, the Pennsylvania Physical Therapy Association (PPTA) would like resubmit comments on the Bureau's Proposed Rulemaking. Some of the comments have been clarified and recommendations added.

1. 127.3. Definitions
 - a. *Provider under review.* The second sentence of this definition reads, "When treatment is provided *or ordered* by a provider whose activities are subject to direction or supervision by another provider, the directing or supervising provider shall be the provider under review." In this sentence and context the words "or ordered" cause confusion. There are providers who at times act upon a referral, but who do not act on specific orders. These providers exercise independent professional judgment related to evaluation and diagnosis of a condition and the provider's activities in the treatment of the condition do not require supervision or direction from the referral source. The PPTA recommends that the words "or ordered" be removed.
2. 127.107. Outpatient providers subject to the Medicare fee schedule—physical therapy centers and independent physical therapists (c) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or remembering of a CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen under subsection (b) for services rendered under the act.
 - a. This addition would appear to allow the Bureau to independently define a "new" CPT code. In the AMA CPT system a renumbered code may be listed as a "new" code.
3. 127.117. Outpatient acute care providers, specialty hospitals and other cost-reimbursed providers [not subject to the Medicare fee schedule].
 - a. This section along with the definition of "Audited Medicare cost report" will commingle cost based and fee schedule payment methodology for a single provider type, cost based providers. While we recognize that an audited Medicare cost report can no longer be used to determine cost based reimbursement, we do not agree that the Medicare fee schedule supports the costs associated with this provider type. The PPTA suggests that an averaging of cost to charge ratios within a Workers' Compensation

payment area be used to determine the entry-level reimbursement for new providers of this type.

4. 127.256. Administrative decision and order on an application for fee review.
 - a. The PPTA objects to the removal of a time frame for the Bureau to render an administrative decision on fee reviews. While 30 days may not be practicable for the Bureau, the absence of a time frame diminishes the process value to the fee review applicant and eliminates a goal standard for the Bureau. As providers are held to time standards, so should the Bureau be held.
5. 127.260. Fee review adjudications.
 - a. The PPTA objects to the removal of a time frame for fee review adjudication for the reason stated in concern #5.

The PPTA thanks you for this opportunity to comment on the Department of Labor and Industry proposed rulemaking.

Respectively submitted,

Sandra K. McCuen, PT
Reimbursement Specialist, PPTA

Gelnett, Wanda B.

From: Wunsch, Eileen [ewunsch@state.pa.us]
Sent: Tuesday, June 27, 2006 9:11 AM
To: Henneman, Karla
Cc: Kuzma, Thomas J. (GC-LI); Howell, Thomas P. (GC-LI); Kupchinsky, John
Subject: FW: Comments on Proposed Rulemaking

KARLA,

These need to get printed and logged in. Thanks.

Eileen K. Wunsch, MS, CPIW, ARM
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-----Original Message-----

From: Sandra McCuen [mailto:sandra.mccuen@verizon.net]
Sent: Monday, June 26, 2006 9:38 PM
To: Eileen Wunsch
Cc: Carole Galletta; Gerri Grzybek; Kent Culley
Subject: Comments on Proposed Rulemaking

Morning Eileen,

Attached are written comments from PPTA for the 6-29-06 meeting. See you Thursday.

Sandy

Sandra K McCuen, PT
Reimbursement Specialist, PPTA
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7/12/2006

June 26, 2006

Eileen K. Wunsch, MS, CPIW, ARM
Chief, Health Care Services Review
Bureau of Workers Compensation
Department of Labor & Industry
1171 South Cameron Street
Harrisburg, PA 17104

Dear Eileen,

The Pennsylvania Physical Therapy Association (PPTA) would like to commend the Bureau for their efforts to improve processes for both the carrier and provider communities in order to better serve the injured workers in the Commonwealth of Pennsylvania.

The following comments/questions are submitted by the PPTA for discussion at the meeting of the Health Care Providers/Insurance Industry Medical Fee Committee scheduled for Thursday, June 29, 2006.

1. 127.3. Definitions
 - a. *Audited Medicare cost report.* What is the operational intent of the phrase “or a successive mechanism used by Medicare to determine program reimbursement costs or rates”? How will this affect reimbursement to current and new cost based providers?
 - b. *Provider under review.* Does this definition influence section 127.454 Requests for UR – reassignment? Of concern are the potential for UR of a physician’s referral to physical therapy and the possibility for denial of payment for PT services rendered without the physical therapist being party to the UR and having no redetermination rights.
2. 127.105. Outpatient providers subject to the Medicare fee schedule—chiropractors (b) Payments for physiological therapeutic procedures by chiropractors shall **initially** be based on the Medicare fee schedule for the appropriate CPT or HCPCS codes [97010—97799]
 - a. The PPTA suggests that the words “adjunctive procedures” replace the phrase “physiological therapeutic procedures”. Adjunctive procedure is the more established definition for rehabilitation services provided by chiropractors and would more clearly distinguish, for the injured worker, the professional services of the chiropractor and the physical therapist.
3. 127.107. Outpatient providers subject to the Medicare fee schedule—physical therapy centers and independent physical therapists (c) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or remembering of a CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen under subsection (b) for services rendered under the act.

- a. Does this addition intend to allow the Bureau to independently define a “new” CPT code? In the AMA CPT system a renumbered code may be listed as a “new” code.
4. 127.117. Outpatient acute care providers, specialty hospitals and other cost-reimbursed providers [not subject to the Medicare fee schedule].
 - a. This section would appear to commingle cost based and fee schedule payment methodology and integrate changes in Medicare payment policy that occurred after 1994 into the WC payment system. PPTA does not believe that this meets the intent of the Act.
5. 127.256. Administrative decision and order on an application for fee review.
 - a. The PPTA objects to the removal of a time frame for the Bureau to render an administrative decision on fee reviews. While 30 days may not be practicable for the Bureau, the absence of a time frame diminishes the process value to the fee review applicant and eliminates a goal standard for the Bureau. As providers are held to time standards, so should the Bureau be held.
6. 127.260. Fee review adjudications.
 - a. The PPTA objects to the removal of a time frame for fee review adjudication for the reason stated in concern #5.

The PPTA thanks you for this opportunity to comment on the Department of Labor and Industry proposed rulemaking.

Respectively submitted,

Sandra K. McCuen, PT
Reimbursement Specialist, PPTA