

Proposed Permanent Rules - Workers' Compensation Medical Fees

The Workers' Compensation Division adopts rules that govern medical fees for treating injured workers in Oregon. On Oct. 15, 2008, the division filed new proposed rules to address concerns and questions about the role of preferred provider networks ("PPOs") in workers' compensation.

The proposed rules would prohibit preferred provider network discounts for medical services performed by doctors, physical therapists, and other health care providers who treat injured workers, but would still allow individual providers to offer discounts if they choose. Under the proposal, network discounts would continue to be allowed for prescription drugs and hospital services provided to injured workers.

The need for clarification in the rules became apparent earlier this year, when the division began receiving an increasing number of fee disputes between providers and insurers about discounted rates in PPO contracts. Although these contracts have had a long history in Oregon's workers' compensation system, the department's rules were silent on how they should be treated. The department on July 7 issued temporary rules that allowed payments under these contracts to continue. After studying the issue and receiving feedback from a variety of parties, the division developed the proposed rules to replace the temporary rules.

Specifically, the proposed rules do the following:

- Do not allow fee discounts for medical services that are part of contracts between providers and PPOs.
- Allow providers to enter into fee discount agreements if they choose.
- Sets requirements for those fee discount agreements, including the following:
 - The agreement must be directly between the provider and the insurer or self-insured employer and must only apply to workers' compensation.
 - The agreement must be in a standard format and registered with the Workers' Compensation Division.
 - The maximum discount allowed is 10 percent below the medical fee schedule.
 - Either party may terminate the agreement by providing 30 days written notice.
- Continue to allow discounts to providers as part of managed care organization (MCO) contracts.
- Continue to allow network discounts for durable medical equipment, ambulatory surgical centers, hospitals (excluding rural hospitals), and prescription drugs.

Next steps: Public hearings on the proposed rules are scheduled for Nov. 20 at 5 p.m. and Nov. 24, 1:30 p.m. at the Labor and Industries Building in Salem, and the public is invited to submit written testimony on the rules through Nov. 26. To read the proposed rules, go to <http://wcd.oregon.gov/policy/rules/rules.html#proprules>. Once the division reviews the public testimony, it will file the final version of the rules, which will take effect Jan. 1, 2009.

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