Division of Workers’ Compensation

Wednesday, August 22, 2018
Regulatory and Legislative Update

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2018 Legislative Update

HB 7085 – WC Reform, sponsored by Rep. Burgess

- Requires additional specificity requirements to a PFB.
- Extends the number of days from 30 to 45 days after the carrier receives a PFB in order for claimant attorney fees to be attached.
- Revises medical authorization timelines and procedures.
- Revises outpatient facility reimbursements: 160% of Medicare for scheduled surgeries and 200% of Medicare for non-scheduled surgeries.
- Increases the combined maximum TTD and TPD durations to 260. Allows for additional 26 weeks of TTD if the IW has not reached MMI.
- Permits claimant attorneys to receive fees directly by or on behalf of an injured worker.
- Allows a JCC to deviate from the % of benefits secured attorney fee schedule, and approve an hourly rate amount, capped at $150/hour.
- Retains ratemaking structure, but allows carriers to decrease rates up to 5%.
- NCCI cost estimate: -5% savings or more.
- Passed the House, but not taken up in the Senate.
2018 Legislative Update

• SB 376 – Expanded Indemnity Benefits for 1st Responders, sponsored by Sen. Book and Rep. Wilhite. The law becomes effective on October 1, 2018. Specific criteria must be met:

  • The posttraumatic stress disorder must result from the first responder acting within the course of his or her employment.
  • The first responder must have been exposed to one of the qualifying events defined in the law.
  • The first responder must be examined and subsequently diagnosed with posttraumatic stress disorder by a licensed psychiatrist who is an authorized treating physician of the employer/carrier for workers’ compensation purposes.
  • A claim for benefits must be properly reported/noticed within 52 weeks after the qualifying event.
  • The Department must, by rule, specify injuries qualifying as grievous bodily harm of a nature that shocks the conscience.
  • Employing agencies of 1st Responders must provide educational training related to mental health awareness, prevention, mitigation, and treatment.
2018 Legislative Update

• HB 7087 – Taxation Bill – contained a provision relating to “marketplace contractors”.
  • The original legislation would have inadvertently gutted the employer/employee relationship within the Chapter 440 and detrimentally affected the workers’ compensation coverage and compliance requirements.
  • An amendment limited the scope of services performed by a marketplace contractor and ensured the marketplace contractors and third parties would still need to abide by the coverage and compliance requirements.
Regulatory Update

- 69L-31, Utilization and Reimbursement Dispute Rule
- 2019 Three-Member Panel Biennial Report
- Data Story
- Assessment Rates
- Interactions with Injured Workers
- Reemployment Services Contract Proposals
Opportunities for Industry Improvement

Charlene Miller, Bureau Chief Monitoring & Audit
Lisel Laslie, Bureau Chief Data Quality & Collection
Our Roles and Responsibilities

**Monitoring & Audit**
- Ensuring the timely and accurate payment of benefits to injured workers
- Timely and accurate filing and payment of medical bills
- Timely and accurate filing of required claims forms and other electronic data
- Responsible for ensuring that the practices of insurers and claims handling entities meet the requirements of Chapter 440 F.S. and the Florida Administrative Code

**Data Quality & Collection**
- Efficiently and effectively collecting and storing data to provide accurate, meaningful, timely, and readily accessible information to all stakeholders
- Facilitates data distribution to other Division bureaus
- Manages high volumes of data from claims-handling entities and vendors for Claims, Medical and Proof of Coverage data as required by Chapter 440, F.S. and the Florida Administrative Code

**CFO Jimmy Patronis**
4 Opportunities for Industry Improvement

• Communication
• Opportunities in Claims Handling
• Good Data
• Reporting
INJURED WORKER HELPLINE TEAM – TYPE OF ASSISTANCE FOR EDUCATION CALLS FY 2016-2017

- Carrier Contact Information: 8,789
- Indemnity Benefits: 4,581
- Notice of Injury: 3,800
- Medical Authorization: 3,740
- Division & Industry Forms: 3,727
- Coverage Information: 1,518
- Medical Bills: 1,254
- Compensability: 715
- AWW/Compensation Rate: 288
- Maximum Medical Improvement: 282
- Settlements: 260
Opportunities in Claims Handling

- Communication
- Training
- Over/Under payments
- Opioids and Pain Management
- Good data
- Coming soon!
Communication and Training

• Start your claim out right
• 3 point contact
• Brochures and letters mailed
• Communicate with providers
• Open lines of communication with the employer
• Talk with the injured worker or their representative about what is happening

Training for staff can include:
• A set of best practices to use as a guide
• Setting and maintaining accurate reserves
• Making timely payments for indemnity and medical bills
• Importance of communication
• Filing appropriate forms with the jurisdiction
• Meeting to evaluate the claims itself
Over/Under Payments

• Over Payment Reasons
  - Wage Information received late
  - Incorrect AWW or Comp Rate Calculation
  - Incorrect calculation of IB benefit
  - Impairment Benefits paid late
  - Incorrect Calculation of PT or Supp benefit
  - Incorrect Calculation of the SSI offset
  - Incorrect calculation of work days
  - Incorrect Benefit Type Paid
  - Indemnity Not Due
  - RTW reported late
  - MMI reported late

• Under Payment Reasons
  - Indemnity Due and Not Paid
  - Wage Information received late
  - Incorrect AWW or Comp Rate Calculation
  - Incorrect calculation of work days
  - Incorrect Benefit Type Paid
  - RTW reported late
  - MMI reported late
  - Incorrect calculation of IB benefit
  - Incorrect amounts recouped
  - Incorrect Calculation of PT or Supp benefit
  - Incorrect Calculation of the SSI offset
  - Penalties and Interest owed but not paid
House Bill 21 became effective 07/01/2018

1. Amended 456.0301, F.S. requiring continuing education credits for prescribers and proof thereof. The law prohibits DOH from renewing licenses in certain instances without these CECs.

2. Amended 458.3265 and 459.0137, F.S. to require Pain Management Clinics to register or hold valid certificates of exemption.
Collecting Good Data

• Increased efficiencies in the claims handling process
• Reduction in the overall costs
• Increased levels of stakeholder satisfaction
Reporting

• Claims data drives better decision making, action and outcomes.

• Reporting your claims data accurately and timely to the Division allows us to provide accurate, meaningful, timely and readily accessible information to all stakeholders within the workers’ compensation system.

• This in turn facilitates the monitoring of injured workers benefits, employer coverage and compliance and health care provider payments.
## Reporting the Notice of Action Change

<table>
<thead>
<tr>
<th>2016-2017 Reason Notice of Change was Necessary</th>
<th># of Not Filed Forms</th>
<th>2017-2018 Reason Notice of Change was Necessary</th>
<th>Combined # of Untimely Forms</th>
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<tbody>
<tr>
<td>Report RTW Info</td>
<td>681</td>
<td>Report RTW Info</td>
<td>1,416</td>
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<tr>
<td>Report MMI Info</td>
<td>567</td>
<td>Report MMI Info</td>
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<td>Report a Change From TTD to TPD</td>
<td>269</td>
<td>Report a Change From TTD to TPD</td>
<td>470</td>
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<tr>
<td>Report Annual Increase of PTD Supps</td>
<td>193</td>
<td>Report a Settlement</td>
<td>412</td>
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<td>Report a Settlement</td>
<td>179</td>
<td>Report Adjustment to AWW/CR</td>
<td>357</td>
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<td>Report Adjustment to AWW/CR</td>
<td>148</td>
<td>Report Annual Increase of PTD Supps</td>
<td>310</td>
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<tr>
<td>Report Suspension of Benefits</td>
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<td>Report Suspension of Benefits</td>
<td>306</td>
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<td>Report a Change From TPD to TTD</td>
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<td>Report Reinstatement of Benefits</td>
<td>265</td>
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<td>Report Reinstatement of Benefits</td>
<td>83</td>
<td>Report a Change From TPD to TTD</td>
<td>205</td>
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<tr>
<td>Report an Acquired Claim</td>
<td>44</td>
<td>Report an Acquired Claim</td>
<td>99</td>
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<tr>
<td>Report the Recoupment of Paid Benefits</td>
<td>16</td>
<td>Report Correction of SSN</td>
<td>37</td>
</tr>
<tr>
<td>Report the PTD Acceptance Date</td>
<td>12</td>
<td>Report the PTD Acceptance Date</td>
<td>36</td>
</tr>
<tr>
<td>Report IIB's Were Paid in Full</td>
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<td>Report the Recoupment of Paid Benefits</td>
<td>18</td>
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<td>Report Correction of SSN</td>
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<td>Report an Initial Payment by CHE</td>
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<td>Report an Initial Payment</td>
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<td>Report IIB's Were Paid in Full</td>
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</tr>
<tr>
<td>Report a Change in SS Offset</td>
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<td>Report an Initial Payment</td>
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<td>Other</td>
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<td>Combined Not Filed Total</td>
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<td>Other</td>
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<tr>
<td>Combined Untimely Total</td>
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<td>Combined Untimely Total</td>
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</tbody>
</table>
Training Requests-

For Claims Training contact:

WorkComp-AuditTraining@myfloridacfo.com

For Claims EDI contact:

TriageClaims.edi@myfloridacfo.com

For Medical Submitter training contact:

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Developing a Workers’ Compensation System Health Index

Brittany O’Neil
Policy Coordinator
Path...

- Supreme Court cases
- Data Story
- Survey
- What’s important to you as stakeholders?
- What’s important to us as the regulators?
- How do we balance the 2 when creating a “score”?
*3-4% of workers sustain a work-related injury that results in the payment of medical and/or indemnity benefits

*3-4% of workers sustain a work-related injury that results in the payment of medical and/or indemnity benefits

*The average number of workers’ compensation injuries per year is 276,443

*Approximate 20% decrease in total number of claims since 2005
Worker's Compensation System Survey

9a. Hospitals

8a. Physicians

Impact to medical delivery system if too high

Impact to medical delivery system if too low

7a. The workers’ compensation medical benefit system is striking the right balance between providing access to quality medical care and medical cost containment.
Following the Dots

• What’s important to you as stakeholders?
• What’s important to us as the regulators?
• How do we balance the 2 when creating a score?
Pick your favorite

- Speed of RTW
- % of lost time claims
- Growth in RTW
- Oregon Premium ranking
- Accessibility to Regulators

- Average Impairment rating
- Ratification requirement
- Average length of employment before injury
Classic measurements vs innovative comparative measurements

Is average impairment rating an indicator?

Is litigation rate an indicator?

Is average employee age an indicator?

Is tourism an indicator?

Is job growth indicator?
What can be measured?

- Time to initial visit
- Time to follow up visit
- Patient education
- Patient satisfaction
- Employer education
- Employer satisfaction
- Doctor education
- Doctor satisfaction
- Time to representation
- Number of PFBs
- Comparing costs to group health

*What one thing would most change the system as a whole?*
Weight

• Applying weights to each item to level set the overall index
• Use survey results
• How does one stakeholder increase compare to another stakeholder increase...or decrease?
Ongoing discussions

• Data points that we have
• Mission buckets
• Where is GO?
  • Baseline now or virtual baseline to go forward
• WCRI data
• One index per stakeholder??
• Started the Index concept
• Bring it here for input
Medical Services Update

Theresa Pugh
Program Administrator
Medical Services Section
Discussion Topics

- 69L-7 Rule Series: Workers’ Compensation Medical Reimbursement and Utilization Review
- 69L-8 Rule Series: Selected Materials Incorporated by Reference
- 69L-7.100: Reimbursement Manual for Ambulatory Surgical Centers
- 69L-7.501: Reimbursement Manual for Hospitals
- 69L-30: Expert Medical Advisors
- 69L-31: Utilization and Reimbursement Dispute Rule
- 69L-34: Carrier Report of Health Care Provider Violations
Workers’ Compensation Medical Reimbursement and Utilization Review, 69L-7 Rule Series

- Effective as of February 18, 2016
- No Change

Diagram:

- 69L-7
  - 7.710
  - 7.750
  - 7.740
  - 7.720
  - 7.730
Workers’ Compensation Medical Reimbursement and Utilization Review, 69L-7 Rule Series

- 69L-7.740: Insurer Responsibilities
  - 45 days to adjudicate and issue EOBR
    - Unless returning the bill to the provider under provisions of 7.740(11)(c); or
    - Bills for pharmaceutical services provided by pharmacist or pharmacy on which a binding contract exists
  - Florida specific EOBR codes and descriptors
    - Use the appropriate FL EOBR Code for Each line item
    - Internal reason codes may be appended in addition to Florida specific EOBR codes
  - EOBR Code 10 versus EOBR Code 11
    - EOBR Code 10 = total denial
    - EOBR Code 11 = partial denial
Rule Chapter 69L-8 currently contains the following:

- 69L-8.071: Materials for use with the Florida Workers’ Compensation Health Care Provider Reimbursement Manual
- 69L-8.072: Materials for use with the Florida Workers’ Compensation Reimbursement Manual for Ambulatory Surgical Centers
- 69L-8.073: Materials for use with the Florida Workers’ Compensation Hospital Reimbursement Manual
- 69L-8.074: Materials for use throughout Rule Chapter 69L-7, F.A.C.
Selected Materials Incorporated by Reference, 69L-8 Rule Series

- 69L-8.071 and 69L-8.074
  - Updated to accommodate the 2016 HCP manual
  - Workshop held May 31, 2017
  - Hearing October 4, 2017
  - Notice of Change filed November 17, 2017
  - Adopted December 29, 2017
  - Effective January 01, 2018

- 69L-8.072 and 69L-8.073
  - No change. Effective 2/18/2016
Selected Materials Incorporated by Reference, 69L-8 Rule Series

- During the rule making process for the 2018 manuals, the contents of these rules have been moved to the individual reimbursement manual rule texts.

- When manuals are adopted, the 8 rule series will be withdrawn.
Reimbursement Manuals

- New formatting

JIMMY PATRONIS  FLORIDA’S CHIEF FINANCIAL OFFICER

FLORIDA WORKERS’ COMPENSATION

Reimbursement Manual

CFO JIMMY PATRONIS
Reimbursement Manuals

- New formatting

INTRODUCTION & OVERVIEW

Introduction
It is important that Ambulatory Surgical Centers (ASCs) and carriers read the updated material in the Florida Workers’ Compensation Reimbursement Manual for Ambulatory Surgical Centers (Manual). Both parties have a responsibility for performing specific duties when billing, reporting, or reimbursing medical services rendered to injured workers.

Reimbursement Manuals are available under the “Reimbursement Manuals” section on the DWC website at www.myfloridacfo.com/Division/WC/.

E-Alert System
The Division has an electronic alert (e-Alert) system to notify subscribers of news impacting the Workers’ Compensation Industry and dates of upcoming public meetings and workshops.

To subscribe to the e-Alerts, please go to the DWC website, www.myfloridacfo.com/Division/WC/. Look for the “E-Alert” link near the bottom of the page.

Other Applicable Rules
In addition to this Manual, Rule 69L-7.100, F.A.C., also recognizes the following resource:
The Florida Workers’ Compensation Medical Reimbursement and Utilization Review, Rule Chapter 69L-7, F.A.C.

How to Obtain or Purchase Hard Copy Manuals
This Manual can be obtained free of charge on the DWC website at http://www.myfloridacfo.com/Division/WC, under the “Reimbursement Manuals” section, or purchased in hard copy from the Department of Financial Services, Document Processing Section, at 200 East Gaines Street, Tallahassee, Florida 32399-0311.

Manual Updates
The Manual must be updated through rulemaking. When the Manual is updated, the Manual will be

CFO JIMMY PATRONIS
Reimbursement Manual for Ambulatory Surgical Centers, Rule 69L-7.100, F.A.C.

- Workshop held August 25, 2017
- Hearing held November 21, 2017
- The 2017 edition was not ratified by the legislature
- The 2015 edition remains in effect
Workshop to be held August 24, 2018

- General reimbursement remains:
  - The MRA, or
  - 60% of billed charge if procedure not listed in schedule, or
  - An agreed upon contract price
- Incorporates updated schedule of MRAs
- Includes 166 MRAs
- Reference materials included in rule text
- Will require legislative ratification

- Workshop held August 25, 2017
- Hearing Held November 21, 2017
- The 2017 edition was not ratified by the legislature
- 2016 edition remains in effect

- Workshop to be held August 24, 2018
- Updates MRAs to incorporate 2018 Medicare Relative Value Units (RVUs)
- Will require ratification
- Reference materials included in rule text
Hospital Reimbursement Manual
Rule 69L-7.501, F.A.C.

- Workshop held August 25, 2017
- Hearing Held November 21, 2017
- The 2017 edition was not ratified by the legislature
- The 2014 edition remains in effect

- Updates Outpatient Base Rates
- Updates Geographic Modifiers
- Reference materials included in rule text
Expert Medical Advisors, Rule 69L-30, F.A.C.

- Effective May 18, 2017
- No change
Expert Medical Advisors

- About 140 Expert Medical Advisors
- We need EMAs in the following specialties
  - Internal Medicine
  - Neurology and Psychiatry
  - Pain Management
  - Anesthesiology
- Florida DWC EMA Website:
  - Apply for EMA certification: [https://msuwebportal.fldfs.com/](https://msuwebportal.fldfs.com/)
  - Search EMA database: [https://apps.fldfs.com/provider/](https://apps.fldfs.com/provider/)
Utilization and Reimbursement Dispute Rule, Rule 69L-31, F.A.C.

- 69L-31.003 Petition Form
- 69L-31.004 Carrier Response Form
- 69L-31.005 Petition Requirements
- 69L-31.006 Consolidation of Petitions
- 69L-31.007 Service of Petition on Carrier and Affected Parties
- 69L-31.008 Computation of Time
- 69L-31.009 Carrier Response Requirements
- 69L-31.010 Effect of Non-Response by Carrier
- 69L-31.011 Complete Record
- 69L-31.012 Joint Stipulation of the Parties
- 69L-31.013 Petition Withdrawal
- 69L-31.014 Overutilization Issues Raised in Reimbursement Dispute Resolution
- 69L-31.015 Managed Care Arrangements (Repealed)
Utilization and Reimbursement Dispute Rule, 69L-31, F.A.C.

- First workshop held January 12, 2016
- Second workshop held June 10, 2016
- Hearing January 5, 2017
- Notice of Change and Correction filed May 2, 2017
- Rule challenges filed week of May 25, 2017
- First post-challenge workshop held February 23, 2018
- Second post-challenge workshop held May 30, 2018
- Hearing held August 15, 2018
Utilization and Reimbursement Dispute Rule, 69L-31, F.A.C.

- Post Rule Challenge
  - Processing petitions using provisions in current effective 69L-31 (effective 6/26/2008)
  - Rework will impact over 5,000 cases
    - Most of these contract related
    - New determination will be issued

On November 30, 2017, the Division of Administrative Hearings issued a Final Order declaring Proposed Rules 69L-31.016(1), (2), and 69L-31.005(2)(d), Florida Administrative Code (F.A.C.), invalid exercises of delegated legislative authority. The Final Order concluded the Department does not have statutory authority to carve out exceptions from the reimbursement dispute process and must issue a written determination of whether the carrier properly adjusted or disallowed payment.
Utilization and Reimbursement Dispute Rule, 69L-31, F.A.C.

- Contracts
  - Determinations issued after 8/2015 until late 11/2017

NOTE: This reimbursement Determination is limited in scope to standards and policies set forth in chapter 440, Florida Statutes, including all applicable reimbursement schedules, practice parameters, and protocols of treatment. It does not interpret, apply or otherwise take into account any contractual arrangement between the parties governing reimbursement for services provided by health care providers, including any workers’ compensation managed care arrangement under section 440.134, Florida Statutes.
Utilization and Reimbursement Dispute Rule, 69L-31, F.A.C.

- Medical Necessity & Compensability
  - Determinations issued after 11/2015 until late 11/2017
  
  *The Department will not address any disallowance or adjustment of payment where the basis for the disallowance or adjustment or payment by the carrier involves denial of compensability of the claim or assertion that the specific services provided are not medically necessary.*

  - Determinations after 11/2017: review documents submitted and determine if bill adjudicated correctly
Utilization and Reimbursement Dispute Rule, 69L-31, F.A.C.

- Summary of Proposed Changes
  - New definitions
  - No NODs
  - Updated forms
Carrier Report of Health Care Provider (HCP) Violations
Rule 69L-34, F.A.C.

- General Violation types:
  - Improper Billing of Services
  - Improper Reporting of Services
  - Improper Form Completion
  - Standards of Care Violation, including overutilization

- Referral Submission Types
  - Manual- Form DFS-F6-DWC-2000, Health Care Provider Violation Referral
  - Health Care Provider Violations Website: https://apps8.fldfs.com/hcprov/default.aspx
Carrier Report of Health Care Provider (HCP) Violations
Rule 69L-34, F.A.C.

- Must be submitted to the Division no later than 180 days after the issuance of an EOBR or other notice of alleged violation
- Include all supportive documentation of the specific violation:
  - Correspondence and written requests between carrier and provider
  - Copies of medical bills and DWC-25 forms
  - Copies of notices of disallowance or adjustment
  - Peer review reports
  - Copies of collection letters
  - Determinations issued by the Division
HCP Violation Breakdown: Referral by Submitter Type FY 2016 - 2017

- Carrier: 10
- Injured Employee: 7

Department of Financial Services
CFO Jimmy Patronis
HCP Violation Breakdown: Referral
Violation Type FY 2016 - 2017

- Collecting Payment from Injured Worker: 2
- Standards of Care/Overutilization: 10
- Improper Reporting: 5

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Questions