

February 15, 2021

The Honorable Wilton Simpson  
President of the Senate  
409 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

Dear President Simpson:

Section 440.13(12)(e)4, F.S., requires the Three-Member Panel to biennially submit recommendations to the President of the Senate and the Speaker of the House on methods to improve the workers' compensation health care delivery system. The Three-Member Panel submitted a comprehensive list of recommendations in its 2019 Biennial Report, which can be found at <https://www.myfloridacfo.com/Division/WC/PublicationsFormsManualsReports/Reports/2019-Biennial-Report.pdf>

On behalf of the Three-Member Panel, I appreciate the opportunity to provide you with the following recommendations for your consideration.

#### Legislative Ratification of the Reimbursement Manuals

Section 440.13(12)(a), F.S., requires the Three-Member Panel to annually adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. It is not clear that section 440.13, F.S., or the Florida Administrative Procedure Act, requires ratification. Clarification of the current statutory and regulatory framework will allow the Three-Member Panel to proceed effectively without threat of legal challenge.

Recommendation: To promote the self-execution of the workers' compensation system, the Legislature should consider either an express exemption of the reimbursement manuals from legislative ratification under section 120.541(3), F.S., or expressly establish a maximum cost impact percentage threshold for each reimbursement manual for which ratification is not required.

#### Provider Reimbursement Amounts

Section 440.13(12)(a), F.S., states in part, "An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program shall be reimbursed either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule." The current statutory language does not contemplate situations where a provider bills an amount for a service or treatment, which is less than the maximum reimbursement allowance.

Recommendation: Amend paragraph 440.13(12)(a), F.S., to allow a payor to pay the agreed-contract price, or either the maximum reimbursement allowance in the appropriate schedule or the provider's billed charge, whichever is less. This amendment is a single, but important step in promoting workers' compensation cost containment for employers.

If you have any questions regarding these recommendations, please do not hesitate to call me.

Sincerely,

A handwritten signature in blue ink that reads "David Altmaier". The signature is written in a cursive, flowing style.

David Altmaier  
Insurance Commissioner  
Three-Member Panel Chairman

Cc: Ms. Tamela Perdue, Panel Member  
Mr. Jason Robbins, Panel Member



## OFFICE OF INSURANCE REGULATION

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ATTORNEY GENERAL

NICOLE "NIKKI" FRIED  
COMMISSIONER OF  
AGRICULTURE

DAVID ALTMAIER  
COMMISSIONER

February 15, 2021

The Honorable Chris Sprowls  
Speaker, House of Representatives  
420 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399

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DAVID ALTMAIER  
INSURANCE COMMISSIONER  
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Affirmative Action / Equal Opportunity Employer

Recommendation: To promote the self-execution of the workers' compensation system, the Legislature should consider either an express exemption of the reimbursement manuals from legislative ratification under section 120.541(3), F.S., or expressly establish a maximum cost impact percentage threshold for each reimbursement manual for which ratification is not required.

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