



DAILY STATE-BY-STATE WORKERS' COMP  
COVID-19 POLICY UPDATES

9/18/2020

NAT'L

MD

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NY

**WC Agency Notification**

Dept of Labor

**Pharmacy**

No Guidance Issued

**Medical**

FECA Bulletin NO 20-05 3.31.20

Subject: Federal Employees Contracting COVID-19 in Performance of Duty

Purpose: To provide targeted instructions to claims staff on the handling of COVID-19 FECA claims by federal employees.

Action:

1. A special indicator has been assigned to all COVID-19 claims. The indicator is available for input in the Employees' Compensation and Management Portal (ECOMP) or can be added by case-create clerks where the form is received on paper or by fax. However, where the indicator is not included (such as in cases where the agency uses its own electronic data interchange (EDI) system or where the agency did not elect to use the indicator available in ECOMP), claims examiners should alert their District Director that the COVID-19 indicator must be added.
2. An OWCP DFEC COVID-19 Task Force has been created to help ensure cases are handled expeditiously in a fair and consistent manner. The Task Force will review all COVID-19 claims development and adjudications.
3. EXPOSURE FROM HIGH-RISK EMPLOYMENT: If a COVID-19 claim is filed by a person in high-risk employment (by job category or otherwise confirmed by the employer<sup>1</sup>), OWCP DFEC will accept that the exposure to COVID-19 was proximately caused by the nature of the employment. If the employer supports the claim and that the exposure occurred, and the CA-1 is filed within 30 days, the employee is eligible to receive Continuation of Pay for up to 45 days.
4. EXPOSURE FROM OTHER EMPLOYMENT: If a COVID-19 claim is filed by a person whose position is not considered high-risk, OWCP DFEC will require the claimant to provide a factual statement and any available evidence concerning exposure. The employing agency will also be expected to provide OWCP DFEC with any information they have regarding the alleged exposure, and to indicate whether they are supporting or controverting the claim. If the employer supports the claim, including that the exposure occurred, and the CA-1 is filed within 30 days, the employee is eligible to receive Continuation of Pay for up to 45 days.
5. TESTING: The results of any COVID-19 testing should be submitted to OWCP if available. If the employee has encountered difficulty in obtaining such testing, OWCP will authorize such testing if the employee is working in high-risk employment or otherwise has a confirmed COVID-19 employment exposure.
6. MEDICAL: Medical evidence establishing a diagnosis of COVID-19 is needed. You will need to provide medical evidence establishing that the diagnosed COVID-19 was aggravated, accelerated, precipitated, or directly caused by your work-related activities. For health and safety reasons, claimants may wish to use telehealth to obtain medical evidence from a qualified physician – OWCP encourages this flexibility.
7. CAUSAL RELATIONSHIP: Establishing causal relationship generally requires a qualified physician's opinion, based on a reasonable degree of medical certainty, that the diagnosed condition is causally related to employment conditions. This opinion must be based on a complete factual and medical background. In the case of high-risk employment, the factual and medical background would include the physician's recognition that the employee is engaged in high-risk employment that included exposure to COVID-19 while in federal employment. See D.M. (T.M.) Docket No. 19-0358 (issued March 19, 2020) (ECAB found the employee's death due to meningococemia was causally related to her high-risk employment as a nurse at the employing establishment, as her employment routinely presented situations which could lead to infection by contact with human blood, bodily secretions, and other substances.)
8. USE OF THE DISTRICT MEDICAL ADVISOR (DMA): In the case of high-risk employment where testing establishes a diagnosis of COVID-19 but no physician's signature is on file following appropriate development, the CE may use the DMA to establish the diagnosis and provide the above-referenced recognition that the employee is engaged in high-risk employment that included exposure to COVID-19 while in federal employment.
9. DISABILITY: FECA pays compensation for partial or total disability of an employee resulting from injury in the performance of duty. Just as with other conditions/claims, disability is claimed by the filing of a CA-7, Claim for Compensation, with the employing agency and requires an incapacity because of an employment-related injury to earn wages.

**Telemed**

FECA BULLETIN NO 20-05 3.31.20

6. ...For health and safety reasons, claimants may wish to use telehealth to obtain medical evidence from a qualified physician – OWCP encourages this flexibility.

**9/18/2020**

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**WC Agency Notification**

Dept of Labor

**Medical**

In accordance with DEEOIC policy and procedure, it is necessary currently for claimants to undergo a face-to-face examination with their physician within 60 days of the date of a Letter of Medical Necessity (LMN) supporting any request for a claimant to receive HRHC or DME. Because of new restrictions imposed to limit interpersonal contact, DEEOIC is temporarily permitting Medical Benefit Examiner (MBE) staff to accept LMNs that a physician prepares using information collected from alternative methods of patient evaluation. The exceptions from the usual face-to-face examination requirements include ongoing HRHC or DME at an existing level of care, and telemedicine options for new or increased care. Telemedicine will occur only under those circumstances where the physician has the legal or licensing authority to conduct such an examination. It will also occur only under those circumstances where the claimant's physician has chosen to undertake such an evaluation.

During this period of heightened concern regarding high-risk populations, the MBE is to review the circumstance of a request for continuing the HRHC/DME at the previously approved or existing level. While the MBE must obtain a well-rationalized LMN supporting a need for renewal, if a physician reports being unable to see a claimant face-to-face for medical reasons, the MBE may grant an allowance to extend the current level of HRHC/DME for a new period of authorization. In the absence of a LMN where the physician reports the inability to perform a face-to-face examination, the MBE is to obtain evidence of either a face-to-face examination, or telemedicine consistent with the guidelines for new or increased care below.

Upon receipt of a LMN for an initial request for HRHC/DME or increased level of HRHC, the MBE carefully reviews the LMN and any other relevant medical evidence submitted with the request. When weighing the evidence for a decision regarding authorization, the MBE may accept that a face-to-face examination occurred within 60 days of the LMN when the evidence establishes the following:

a. The LMN or other evidence submitted from the claimant's physician explains that the physician conducted a face-to-face evaluation of the claimant using remote video conference, via computer or mobile devices. The physician may use any viable software or technology to conduct the video conference, as long as the physician attests to having visually interacted with the claimant. While the physician can assess the claimant using a video connection, the MBE must obtain evidence that a Registered Nurse (RN), Advanced Practice Nurse Practitioner (APNP), or Physician Assistant (PA) was present with the claimant during the physician's video conference. The presence of the RN, APNP, or PA is necessary to ensure the physician is able to obtain physical findings or other expert medical input necessary for a comprehensive physical assessment of the claimant. In the circumstance where the MBE receives a LMN or other evidence in which it is unclear whether a face-to-face evaluation occurred, either in person or through the accommodation of a video conference, the MBE is to undertake development. The MBE is to provide notice to the physician regarding the need for a face-to-face evaluation and the allowance for video conference evaluation. The MBE is to stipulate in any development regarding a face-to-face evaluation involving video conference that the physician must conduct the evaluation in compliance with his or her legal or licensing authority. Moreover, the MBE is to advise the physician that any evaluation conducted remotely must be coordinated with a RN, APNP, or PA who must be present with the claimant during the video evaluation.

Once the MBE receives sufficient evidence to establish that a face-to-face evaluation occurred within 60 days of the LMN, the MBE will proceed with their evaluation of the HRHC or DME request in accordance with established policies and procedures. If the MBE is unable to obtain evidence that a qualifying face-to-face evaluation occurred, the MBE may proceed with a decision to deny the claim. DEEOIC will treat the cost for the evaluation of the claimant by the physician using video conference technology, as the same as if it had occurred in the physician's office. DEEOIC will reimburse time and services provided by the RN, ARNP, or PA in accordance with current home billing without any prior approval required.

**Telemed**

DEEOIC Bulletin No 20-03 4.7.20

Subject: Telemedicine for Home and Residential Health Care (HRHC) and Durable Medical Equipment (DME).

Background: In response to the COVID-19 public health emergency, a growing number of cities, states, and localities have implemented "shelter in place" and/or "stay-at-home" orders, requiring the closure of non-essential services, and limiting the movements and travel of their citizens. During this time, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) recognizes the need to implement temporary procedures to allow for the use of telemedicine in place of face-to-face examinations for HRHC and DME evaluations, until such time pandemic restrictions are no longer necessary and are lifted.

While DEEOIC is issuing this Bulletin in response to the current public health emergency and to provide temporary procedures for staff to apply until the effects of the pandemic have lessened, DEEOIC is fully aware that some treating physicians may be constrained in their ability to practice telemedicine by the requirements of their state licensing authorities. DEEOIC recognizes that such requirements must be observed by physicians in states where they apply. Nonetheless, DEEOIC is issuing these temporary procedures to provide physicians who have the ability to do so, with an alternative method by which they may satisfy the regulatory requirement for a face-to-face examination. The procedures described in this Bulletin are therefore optional rather than required.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# NAT'L More

### **WC Agency Notification**

Dept of Labor

Div of Federal Workers Compensation Programs

### **Medical**

The federal workers' compensation program has adopted a presumption that workers in high-risk jobs should receive benefits if they develop the COVID-19 illness. The Division of Federal Employees' Compensation late last week posted a notice that federal workers who have close interactions with the public, such as federal law officers, first responders and frontline medical personnel, will be considered to be in "high-risk" jobs. "In such cases, there is an implicit recognition that a higher likelihood exists of infection due to high-risk employment," the bulletin reads. For those workers, the federal Office of Workers' Compensation Programs "will accept that the exposure to COVID-19 was proximately caused by the nature of the employment," the statement reads. If the employer supports the claim, and the notice of injury, Form CA-1, is filed within 30 days, the employee is eligible to receive continuation of pay for up to 45 days, the division said.

<https://www.dol.gov/owcp/dfec/InfoFECACoverageCoronavirus.htm>

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# AK

### **WC Agency Notification**

Workers Compensation Board

### **Pharmacy**

No Guidance Issued

### **Medical**

Bulletin 20-02 3.16.20

In some cases, the Alaska Workers' Compensation Board requires Second Independent Medical Evaluations (SIMEs), which often necessitate air travel outside Alaska. The location of many SIME doctors may result in travel through areas with a higher number of reported COVID-19 cases. The United States Center for Disease Control (CDC) states some individuals are at higher risk of getting very sick from this illness and is recommending that high risk individuals avoid non-essential air travel until further notice (<https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-riskcomplications.html>).

In light of the CDC recommendation, injured workers who are considered to be at high risk by the CDC, or whose physician has stated they should not travel, will not be required to attend out-of-state SIMEs that require air travel. Travel to these SIMEs will be suspended until the CDC lifts its recommendation against air travel for high risk individuals. Injured workers who are at high risk or whose doctors have stated they should not travel are encouraged to contact the division as soon as possible. If you have questions regarding the information in this bulletin, please contact the Department of Labor and Workforce Development, Workers' Compensation Division (907) 269-4980, or by email at [workerscomp@alaska.gov](mailto:workerscomp@alaska.gov).

BULLETIN 20-05 The governor signed Senate Bill 241, by the Senate Rules Committee, which creates a conclusive presumption that COVID-19 arose out of employment for specified workers. The presumption, which can't be rebutted, applies retroactively to anyone diagnosed with the disease since March 11. The presumption in SB 241 applies to firefighters, emergency medical technicians, paramedics, police officers and health care providers. Workers must be diagnosed by a physician, receive a presumptive positive test or receive a laboratory-confirmed diagnosis to trigger the presumption.

### **Telemed**

No Guidance Issued

**9/18/2020**

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**WC Agency Notification**

Governor

**Pharmacy**

No Guidance Issued

**Medical**

Exec Order 20-19 4.13.20

Suspends provisions of ARK code 11-9-601(c)(2) that requires a contagious or infection disease be contracted in or in immediate connection to a hospital or sanitorium to allow first responders and front line healthcare workers to week workers compensation for exposure to COVID-19 in the line of duty outside of those settings, and suspends 11-9-601(c)(3) that bars compensation for exposure to a disease to which the public is exposed to allow first responders and front line healthcare workers to week workers compensation for exposure to COVID-19 in the line of duty outside of those settings, and defines exposure to COVID-19 as an "unusual and unprecedented incident" under 11-9-114 as it pertains to pulmonary and respiratory accidents that are the cause of injury, illness or death to first responders and front line healthcare workers for the duration of this emergency and first responders and front line healthcare workers who test positive for COVID-19 may be eligible for workers compensation if they demonstrate a causal connection as a result of their employment or occupation and claims for workers compensation due to exposure must be actually incurred due to one's employment and not due to exposure outside the line of duty.

Exec Order 20-25 5.5.20

Extends emergency Order

Exec Order 20-35 6.15.20

Defines COVID-19 as an occupational disease-applies to all claims filed after date of this order and shall automatically expire when the emergency is terminated.

**Telemed**

No Guidance Issued

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

AZ

### **WC Agency Notification**

Industrial Commission of Arizona

### **Pharmacy**

No Guidance Issued

### **Medical**

ADOPTED NEW FEE SCHEDULE CODES RELATED TO COVID-19 TESTING, VIRTUAL CHECK-INS, AND E-VISITS FOR IMMEDIATE USE IN THE 2019/2020 PHYSICIANS' AND PHARMACEUTICAL FEE SCHEDULE

(Language references "Injured Worker")

### **Telemed**

There are 77 CPT®-4 codes in Appendix P which cover a multitude of telemedicine services. The 2019/2020 Fee Schedule includes 73 of the 77 CPT®-4 codes from Appendix P. Allowing a telemedicine option enables an injured worker to effectively obtain services without physical contact and in remote areas where provider shortages may exist. Telemedicine services, however, must be provided through an interactive audio and video telecommunications system that permits real-time communication between the practitioner and the patient.

Governor Exec Order 2020-29 4.14.20 Increased Telemed Access for Workers Compensation

Beginning 4.14.20 and continuing for the duration of the emergency requirement to provide for all healthcare services that can be provided through telemedicine if it would be covered were it provided through an in-person visit.

### **9/18/2020**

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**WC Agency Notification**

Division of Workers' Compensation

**Pharmacy**

No Guidance Issued

**Medical**

The Workers' Compensation Information System was modified to accept the new cause-of-injury code "83" for pandemics and new nature-of-injury code "83" for COVID-19, the disease caused by the new coronavirus.

DWC posted an order that adopts the Medicare clinical laboratory update for the second quarter of 2020, effective for services rendered on or after April 1, 2020. In addition, it adopts COVID-19 testing codes (HCPCS U0001 and U0002) and related fees. The maximum reasonable fees for pathology and laboratory services shall not exceed 120% of the applicable fees set forth in that Medicare fee schedule.

4.6.20 NOTICE from Commissioner Lara

Workers' compensation injuries caused by COVID-19 that arise out of and occur in the course of employment are compensable to the same extent as any other compensable injury or disease. This Notice is a reminder that such claims may not be denied on the basis of the injured worker's citizenship or immigration status.

The Workers' Compensation Commission has issued an addendum to the 2019 medical practitioner fee schedule to address reimbursement for telehealth and

telemedicine services. Telemedicine services should be reimbursed at the same rate as in-person medical treatment, the commission said. The addendum is available from Optum360 and includes new codes for the services. It will be valid for services from March 1 through July 15, when a new fee schedule should be published, the commission noted in its bulletin.

**Telemed**

DWC is currently evaluating feasibility of telemedicine for QME evaluations and will continue to do so. Use of telemedicine for a QME evaluation may be appropriate where all parties agree that there is a medical issue in dispute which involves whether or not the injury is AOE/COE (Arising Out of Employment / Course of Employment), and all parties agree to a telemedicine evaluation in order to resolve this dispute.

Although DWC is not authorizing any particular course of action, DWC recognizes that in this time of medical emergency, creative delivery methods of essential medical treatment and evaluation services may be needed.

During the stay-at-home order (up to May 1, 2020), DWC finds that it may be beneficial for parties to allow telehealth for QME evaluations when an in-person physical examination is not necessary. DWC strongly recommends that all of the following conditions apply to a telehealth evaluation to promote health and safety:

1. Injured worker is able to participate in telehealth evaluation without violating the stay-at-home order.
2. The medical issue in dispute is determined to be essential to an injured worker's benefits and must be addressed no later than May 1, 2020. The dispute must involve:
  - a. An evaluation relating to whether or not the injury is Arising Out of Employment/Course of Employment (AOE/COE)
  - b. Termination of an injured worker's indemnity benefit payments, or
  - c. Work restrictions
3. There is written agreement between injured worker, carrier or employer, and the QME.
4. Telehealth evaluation is consistent with appropriate medical practices and ethical considerations.
5. QME attests that evaluation of the injured worker can be done effectively and safely by way of a telehealth evaluation and does not require an in-person physical examination

**9/18/2020**

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**WC Agency Notification**

CA Dept of Industrial Relations Div of Workers Compensation

**Medical**

ICW Group Insurance Cos. is partnering with Concentra Telemed to provide injured workers with immediate access to medical treatment online via smartphone, tablet or computer.

Concentra Telemed uses licensed medical providers experienced in occupational health to give injured workers the option of accessing nonemergency medical treatment 24 hours a day, seven days a week, with no need to visit a medical facility or spend time in a waiting room. ICW Group's telemedicine service allows injured employees to video chat with a medical provider immediately using videoconferencing. The provider can diagnose, treat and prescribe medication, and telemedicine can be used for follow-up visits and re-checks. The service also offers rehab treatment for work-related injuries through Concentra Telemed's virtual physical therapy program. The telemedicine service is suggested for minor injuries not requiring an in-person medical visit, including

minor functional movement and repetitive use injuries, contusions, bruises, scrapes, rashes and burns, and sprains and strains. If an in-person visit is required, an injured worker will be referred to the nearest medical facility.

Release Number 2020-33 4.23.20

The Division of Workers' Compensation (DWC) has posted an order dated April 15, 2020, adjusting the Pathology and Clinical Laboratory section of the Official Medical Fee Schedule (OMFS) to conform to additional changes to the 2nd Quarter 2020 Medicare update, as required by Labor Code section 5307.1 to adopt new COVID-19 testing codes and fees.

**Telemed**

4.10.20 WC Admin Director Order:

in order to further the use of telehealth while supporting the access to workers' compensation medical treatment during the public health emergency, this Order adopts the following changes to the OMFS for Physician Services and Non-Physician Practitioner Services to conform to relevant Medicare changes:

Title 8, California Code of Regulations section 9789.12.2, subdivision (d)(2), is modified as follows:

02 Telehealth

The location where health services and health related services are provided or received, through a telecommunication system.

(Effective for services on or after March 1, 2017 and prior to April 15, 2020. For services on or after April 15, 2020, report the POS code that would have been reported had the service been furnished in person.)

The Medicare excel document "Covered Telehealth Services for PHE for the COVID-19 pandemic effective March 1, 2020" is adopted and incorporated by reference into Title 8, California Code of Regulations, section 9789.19, subdivision (g), for services on or after April 15, 2020. Section 9789.19, subdivision (g), is modified by adding a new row to the update table as follows:

Telehealth – Services Accessible Through Telehealth (using audio and video telecommunication method) During the COVID-19 Public Health Emergency For services on or after April 15, 2020:

CMS – "Covered Telehealth Services for PHE for the COVID-19 pandemic, effective for services March 1, 2020"

In accord with CPT 2020, append modifier 95 to procedure code when delivered via telehealth.

This Order and the updated regulations are effective for services rendered on or after April 15, 2020 and shall be published on the website of the Division of Workers' Compensation on the physician services and non-physician practitioner services fee schedule webpage.

**9/18/2020**

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**WC Agency Notification**

Gov Exec Order

**Medical**

5.6.20 EXECUTIVE ORDER N-62-20

IT IS HEREBY ORDERED THAT:

- 1) Any COVID-19-related illness of an employee shall be presumed to arise out of and in the course of the employment for purposes of awarding workers' compensation benefits if all of the following requirements are satisfied:
  - a. The employee tested positive for or was diagnosed with COVID-19 within 14 days after a day that the employee performed labor or services at the employee's place of employment at the employer's direction;
  - b. The day referenced in subparagraph (a) on which the employee performed labor or services at the employee's place of employment at the employer's direction was on or after March 19, 2020;
  - c. The employee's place of employment referenced in subparagraphs (a) and (b) was not the employee's home or residence; and
  - d. Where subparagraph (a) is satisfied through a diagnosis of COVID-19, the diagnosis was done by a physician who holds a physician and surgeon license issued by the California Medical Board and that diagnosis is confirmed by further testing within 30 days of the date of the diagnosis.
- 2) The presumption set forth in Paragraph 1 is disputable and may be controverted by other evidence, but unless so controverted, the Workers' Compensation Appeals Board is bound to find in accordance with it. This presumption shall only apply to dates of injury occurring through 60 days following the date of this Order.
- 3) Notwithstanding Labor Code section 5402, if liability for a claim of a COVID-19-related illness pursuant to Paragraph 1 is not rejected within 30 days after the date the claim form is filed under Labor Code section 5401, the illness shall be presumed compensable, unless rebutted by evidence only discovered subsequent to the 30-day period.
- 4) An accepted claim for the COVID-19-related illness referenced in Paragraph 1 shall be eligible for all benefits applicable under the workers' compensation laws of this state, including full hospital, surgical, medical treatment, disability indemnity, and death benefits, and shall be subject to those laws including Labor Code sections 4663 and 4664, except as otherwise provided in this Order.
- 5) Notwithstanding any applicable workers' compensation statute or regulation, where an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits shall be used and exhausted before any temporary disability benefits or benefits under Labor Code section 4850 are due and payable. Where an employee does not have such sick leave benefits, the employee shall be provided temporary disability benefits or Labor Code section 4850 benefits if applicable, from the date of disability. In no event shall there be a waiting period for temporary disability benefits.
- 6) To qualify for temporary disability or Labor Code section 4850 benefit payments under this Order, an employee must satisfy either of the following:
  - a. If the employee tests positive or is diagnosed under Paragraph 1 on or after the date of this Order, the employee must be certified for temporary disability within the first 15 days after the initial diagnosis, and must be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis; or
  - b. If the employee tested positive or was diagnosed under Paragraph 1 prior to the date of this Order, the employee must obtain a certification, within 15 days of the date of the Order, documenting the period for which the employee was temporarily disabled and unable to work, and must be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis.All employees must be certified for temporary disability by a physician holding a physician and surgeon license issued by the California Medical Board. The certifying physician can be a designated workers' compensation physician in an applicable Medical Provider Network or Health Care Organization, a pre-designated workers' compensation physician, or a physician in the employee's group health plan. If the employee does not have a designated workers' compensation physician or group health plan, the employee should be certified by a physician of the employee's choosing who holds a physician and surgeon license.
- 7) The Administrative Director of the Division of Workers' Compensation shall adopt, amend, or repeal any regulations that the Administrative Director deems necessary to implement this Order. Any regulations so promulgated by the Administrative Director shall be exempt from the Administrative Procedures Act (Chapter 3.5 of Part 1 of Title 2 of the Government Code), except that the Administrative Director shall submit the regulations to the Office of Administrative Law for publication in the California Regulatory Notice Register.
- 8) This Order shall apply to all workers' compensation insurance carriers writing policies that provide coverage in California, self-insured employers, and any other employer carrying its own risk, including the State of California. Nothing in this Order shall be construed to limit the existing authority of insurance carriers to adjust the costs of their policies.
- 9) The Department of Industrial Relations shall waive collection on any death benefit payment due pursuant to Labor Code section 4706.5 arising out of claims covered by this Order.

Nothing in this Order shall be construed to modify or suspend any workers' compensation statute or regulation not in conflict with this Order, or to reduce or eliminate any other right or benefit to which an employee is otherwise entitled under law, including the Families First Coronavirus

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# CA-More

Recovery Act, collective bargaining agreement, or Employee Benefit Plan, including group health insurance, that is in effect prior to March 19, 2020.

### **Telemed**

CA Dept of Workers Comp

Retroactive Change to Telehealth Place of Service

For telehealth services, the 5/7/2020 Administrative Director Order amends CCR § 9789.12.2. to direct providers to report the Place of Service (POS) code that would have been reported had the telehealth service been furnished in person for dates of service on or after 3/1/2020.

This retroactive order means that many providers are now entitled to substantially increased amounts of reimbursement for all telehealth bills which they submitted using the POS code 02 populating box 24B on the CMS 1500.

Telehealth Reimbursement: Previous to this 5/7/2020 order, § 9789.12.2. assigned a lower facility reimbursement to all telehealth services furnished 3/1/2020 through 4/14/2020. With this retroactive Order for dates of service on or after 3/1/2020, if the provider normally furnished the telehealth services from a non-facility POS, the provider is entitled to the higher non-facility reimbursement for those telehealth services.

Telehealth Billing Instructions: For telehealth services with a date of service on or after 3/1/2020, providers are instructed to populate the CMS 1500 box 24B with the POS code that the provider normally reported had the telehealth service been furnished in person.

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**WC Agency Notification**

Div of Workers Compensation

**Medical**

DWC Posts Additional Adjustments to Official Medical Fee Schedule Including Expansion of Telehealth to Address COVID-19 Emergency (Physician and Non-Physician Practitioner Services)

The Division of Workers' Compensation (DWC) has posted an order dated May 7, 2020, adjusting the Physician and Non-Physician Practitioner Services section of the Official Medical Fee Schedule (OMFS) to conform to additional Medicare fee schedule changes pursuant to Labor Code section 5307.1. The order includes technical updates and provisions to support expanded access to telehealth services.

The Centers for Medicare and Medicaid Services (CMS) has issued an Interim Final Rule to adopt additional temporary modifications to the Medicare Physician Fee Schedule to improve access to medical care through telehealth during the public health emergency. The Interim Final Rule adopts an expanded list of medical services ("Covered Telehealth Services for PHE for the COVID-19 pandemic effective March 1 2020-updated April 30 2020") that may be billed for telehealth using video and audio technology, and includes identification of services that could be provided through audio-only where medically appropriate. DWC has retroactively adopted the revised telehealth list for services rendered on or after March 1, 2020, and has also adopted a retroactive revision to the Place of Service Code, which may result in an increase in fees for telehealth services if the physician provides the service in a "non-facility" setting.

The CMS Interim Final Rule temporarily increases fees for three telephone evaluation and management codes (CPT codes 99441, 99442, 99443) retroactive to March 1, 2020 to provide parity between these codes and evaluation and management codes for services rendered in person or by audio/video telehealth. DWC has adopted the retroactive increases for these three codes, which will support the provision of medical care for injured workers and further the goal of maintaining social distancing.

The Administrative Director order also adopts the CMS revised 2020 Relative Value Unit file, "RVU20B (Updated 05/01/2020)," which replaces the initial quarter two RVU20B file. The revised file is substantially identical to the original file. The significant change for workers' compensation services is the increase of the relative values for CPT codes 99441 through 99443 discussed above.

Workers' compensation claims administrators should adjust payment systems in light of the retroactive changes, and set up a process to reevaluate claims for services rendered on or after March 1, 2020 that may have additional payment due so that the balance owing is remitted to the provider. If a provider believes that the revised fee schedule would result in an increased payment for services rendered, they may submit a corrected bill or request for second review as appropriate.

The order adopting the updated Physician and Non-Physician Practitioner fee schedule can be found on the DWC fee schedule web page.

The California Division of Workers' Compensation on Wednesday 5.20.20 posted four forms that were updated to allow parties to identify injuries relating to COVID-19. Updated forms include a new body part code for COVID-19 claims that should be used in addition to those that indicate specific body parts or functions that were injured. The body part code for COVID-19 claims is 900.

The updated forms are:

Document cover sheet, DWC Form 10232.1.

Application for adjudication of claim, DWC/WCAB Form 1A.

Compromise and release, DWC Form 10241(c).

Stipulation with request for award for injury on or after Jan. 1, 2013, DWC/WCAB Form 10214(a).

**9/18/2020**

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**WC Agency Notification**

Department of Labor & Industry - Division of Workers' Compensation

**Pharmacy**

No Guidance Issued

**Medical**

Division suspended the rule requiring an authorized treating physician to examine an injured worker within the first three office visits. And the seven-day requirement for denial of a request for prior authorization is extended to 35 days for requests relating to procedures or treatments that are unavailable due to emergency restrictions on medical treatment.

The requirement contained in Rule 16-3(A)(5)(c) that an authorized treating physician exam an injured worker within the first three visits to the physician's office is suspended.

The seven (7) day requirement for denial of a request for prior authorization in Rule 16-7(B) is extended to thirty-five days for requests relating to a procedure or treatment which is currently unavailable due to emergency restrictions on medical treatment enacted by the Governor and/or Colorado Department of Public Health and Environment in executive order D2020 009.

All information submitted to the Division of Workers' Compensation must be submitted via electronic mail. Only ONE document per email message is permitted (ie one FA with attachments or one GA with Support for Return to Work). Multiple attachments will not be accepted. WCD 3.25.20

3.31.20 DWC Bulletin

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Section 4 – Telehealth Reimbursement

Place of service 02 – Telehealth is removed from place of service codes used with the RBRVS facility RVUs.

Maximum allowance is the non-facility RBRVS unit value for the CPT® code times the appropriate conversion factor. A 95 modifier must be appended to the appropriate CPT® code(s). An additional \$5.00 transmission fee is not payable.

Section 5 – Telehealth Utilization

Parties are encouraged to utilize telehealth wherever medically appropriate. Telehealth appointments are specifically allowed for return to work evaluations of essential employees of critical employers as defined in Amended Public Health Order 20-24, when those employees are physically able to do so.

Notwithstanding any other provision of rule, an in-person examination will not be required where either the injured worker or medical provider objects to such an examination.

Section 6 – Duration

This emergency rule shall be in effect until July 22, 2020 unless continued, superseded or rescinded.

This emergency rule shall be in effect until October 13, 2020 unless continued, superseded or rescinded.

**Telemed**

Temporary permits usage of telemedicine in WC and waives PA requirement Division of Workers' Compensation temporarily waived the prior authorization requirement for

initial and follow-up telemedicine visits for physical therapy and occupational therapy.

The division issued an interpretative bulletin explaining that its rules define telemedicine as a two-way, real-time, interactive communication between an injured worker and a provider at a separate site.

The Colorado Division of Workers' Compensation has adopted an emergency rule, to increase payments for telemedicine services to the equivalent of an in-person office visit. The purpose of this change is to promote continued treatment and communication about the progress of recovery when in-person services are not possible or are unavailable

**9/18/2020**

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**WC Agency Notification**

WC Directors Interpretation

**Medical**

Director's Interpretations of Issues Impacting the Colorado Workers' Compensation System

Updated: June 5, 2020

The following HCPCS codes and values have been assigned for SARS-CoV-2 testing:

CDC Labs U0001 .997 RVU CO Medical Fee Schedule \$69.79

Non-CDC Labs U0002 1.41 RVU CO Medical Fee Schedule \$98.70

The following additional CPT® and HCPCS codes and values have been assigned for dates of service on or after June 5, 2020:

86328 1.25 RVUs CO Medical Fee Schedule \$87.72

86769 1.16 RVUs CO Medical Fee Schedule \$81.71

87635 1.41 RVUs CO Medical Fee Schedule \$98.70

U0003 2.77 RVUs CO Medical Fee Schedule \$193.96 (Infectious agent detection by nucleic acid; amplified probe technique, making use of high throughput technologies)

U0004 2.77 RVUs CO Medical Fee Schedule \$193.96 (Any technique, non-CDC, making use of high throughput technologies)

Options for social distancing in health care to minimize the spread of COVID-19:

Telephone - non-face to face services provided to a patient using the telephone.

Physicians would utilize the appropriate code found in the E&M section of CPT®.

Non-physicians would utilize the appropriate code found in the Medicine section of CPT®.

Providers shall continue to comply with all other applicable Division Rules when providing services under this temporary bulletin. For example, providers shall document functional gains pursuant to applicable Medical Treatment Guidelines (MTGs) and Rule 18-5(H)(1). In addition, initial treatment recommendations should not exceed the time to produce functional effect parameters in the applicable MTGs. Finally, providers shall request prior authorization when the treatment exceeds or is outside of the MTGs, or when providing more than one hour of procedures per day per discipline. See Rules 16-4 and 18-4(H)(4).

Physical therapy supplies should be provided by the therapy office or a contracted durable medical equipment vendor.

**Telemed**

Telemedicine - Rule 16-2(W) defines telemedicine as a two-way, real time interactive communication between the injured worker and the provider at a distant site. At a minimum, telemedicine includes audio and video telecommunications equipment. The provider is responsible for HIPAA compliance. Telemedicine is available statewide.

To comply with Rule 18-4(l), providers must append modifier 95 to the appropriate CPT® code and bill location service code 02. If services are billed correctly with supporting documentation, providers will be reimbursed additional \$5 per date of service.

The medical records must include locations of the provider and the patient, the time of each service, and detail how the services were rendered (such as secured video).

Rule 18-4(l) states that healthcare services listed in Appendix P of CPT®, Division Z-codes (when appropriate), G0459, G0508, and G0509 may be provided via telemedicine. The rule allows the provision of additional services with prior authorization. To assure quick and efficient delivery of medical benefits to Colorado injured workers while encouraging appropriate social distancing, the Division temporarily waives the prior authorization requirement for initial and subsequent telehealth visits for physical and occupational therapy.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# CO-More

### WC Agency Notification

#### Telemed

Adopted:

TELEMEDICINE

(1) In addition to the healthcare services listed in Appendix P of CPT®, and Division Z-codes (when appropriate), the following CPT® codes may be provided via telemedicine: G0396, G0397, G0406-G0408, G0425-G0427, G0436, G0437, G0447, G0459, G0508, G0509, 97110, 97112, 97116, 97129, 97130, 97150, 97530, 97535, 97542, 97750, 97755, 97760, 97761, and 98960-98962. Additional services may be provided via telemedicine with prior authorization. The provider shall append modifier 95 to the appropriate CPT® code(s) to indicate synchronous telemedicine service rendered via a real-time interactive audio and video telecommunications system.

All treatment provided through telemedicine shall comply with the applicable requirements found in the Colorado Medical Practice Act and Colorado Mental Health Practice Act, as well as the rules and policies adopted by the Colorado Medical Board and the Colorado Board of Psychologist Examiners and shall follow applicable laws, rules and regulations for informed consent.

**9/18/2020**

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**WC Agency Notification**

Workers Compensation Commission

**Pharmacy**

No Guidance Issued

**Medical**

Memorandum NO. 2020-09 4.1.20

In response to the ongoing COVID-19 health crisis WCC has decided that RMEs and CMEs can be conducted using telemedicine at the discretion of the doctor. The following procedure will apply:

The decision to conduct an RME or CME by telemedicine will be made by the doctor; claimants who refuse to participate, will be subject to the same consequences as if they had failed to attend an in-person appointment.

For RMEs and CMEs conducted by telemedicine:

Claimants shall advise the doctor at the time of the telemedicine examination if anyone else is present and must identify such person;

Attorneys, paralegals and/or hearing representatives are prohibited from being present with a claimant at the time of a telemedicine examination;

If claimant or anyone present with claimant intends to record the examination, or any portion of the examination, the doctor must be advised in advance and must expressly consent.

In addition, for a CME conducted by telemedicine, the party submitting the medical packet to WCC shall ensure that all diagnostic studies, including images (e.g. CD of MRI, CT-scan) are included in the packet.

Memorandum 2020-10 4.7.20

The addendum assigns fees to new codes for telemedicine services provided by physical therapists and occupational therapists and gives instruction on the proper codes to use for billing of telemedicine services provided by a physician. There will be no reduction in reimbursement for telemedicine services. They are to be reimbursed at the same fee schedule amount as listed for non-telemedicine services

**Telemed**

4.1.20 Memorandum NO. 2020-09

In response to the ongoing COVID-19 health crisis WCC has decided that RMEs and CMEs can be conducted using telemedicine at the discretion of the doctor. The following procedure will apply:

1. The decision to conduct an RME or CME by telemedicine will be made by the doctor; claimants who refuse to participate, will be subject to the same consequences as if they had failed to attend an in-person appointment.

2. For RMEs and CMEs conducted by telemedicine:

Claimants shall advise the doctor at the time of the telemedicine examination if anyone else is present and must identify such person;

Attorneys, paralegals and/or hearing representatives are prohibited from being present with a claimant at the time of a telemedicine examination;

If claimant or anyone present with claimant intends to record the examination, or any portion of the examination, the doctor must be advised in advance and must expressly consent.

3. In addition, for a CME conducted by telemedicine, the party submitting the medical packet to WCC shall ensure that all diagnostic studies, including images (e.g. CD of MRI, CT-scan) are included in the packet.

4.23.20 Memorandum BO, 2020-11

The Workers' Compensation Commission is encouraging the use of telemedicine in response to the COVID-19 pandemic. Providers have been instructed to bill telemedicine visits with the appropriate CMS or CPT identified telemedicine code, utilizing modifier 95 together with place of service 02. Carriers have been advised to reimburse these visits at the fee schedule rate with no reduction (excluding contractual discounts).

Until further notice, the Workers' Compensation Commission is instructing that workers' compensation claims billed with place of service 02 shall be reimbursed at the non-facility rate.

**9/18/2020**

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**WC Agency Notification**

STATE OF CONNECTICUT  
BY HIS EXCELLENCY  
NED LAMONT  
EXECUTIVE ORDER NO. 7JJJ

**Medical**

1. Rebuttable Presumption of Eligibility for Workers Compensation. (a) Notwithstanding Section 31-275(15) of the Connecticut General Statutes, there shall be a rebuttable presumption that an employee who initiates a claim for payment of benefits under the provisions of Chapter 568 of the Connecticut General Statutes, and who missed a day or more of work between March 10, 2020 and May 20, 2020, inclusive, due to a diagnosis of COVID-19, or due to symptoms that were diagnosed as COVID-19, contracted COVID-19 as an occupational disease arising out of and in the course of employment, provided:

- i. such employee worked, at the direction of the employer, outside the home during at least one of the fourteen days immediately preceding the date of injury, and had not received an offer or directive from said employer to work from home instead of from his or her place of employment;
- ii. if the date of injury was more than fourteen days after March 23, 2020, such employee was employed by an employer deemed essential by the Department of Economic and Community Development pursuant to Executive Order 7H;
- iii. the contraction of COVID-19 by such employee was confirmed by a positive laboratory diagnostic test within three weeks of the date of injury or diagnosed and documented within three weeks of the date of injury by a licensed physician, licensed physician's assistant, or licensed advanced practice registered nurse, based on the employee's symptoms; and
- iv. a copy of the positive laboratory diagnostic test results or the written diagnosis required by subdivision (iii) of this subsection shall be provided to the employer or insurer.

(b) Any wage replacement benefits paid under Section 31-307 or 31-308(a) of the Connecticut General Statutes shall be reduced by the amount of any paid sick leave available to an employee through the Emergency Paid Sick Leave Act set forth in sections 5101 et seq. of the Families First Coronavirus Response Act, as amended from time to time, or through another paid sick leave program specifically available in response to COVID-19 and separate from any accrued paid time off regularly available to the employee.

(c) The presumption in subsection (a) of this section may be rebutted only if the employer or insurer demonstrates to a workers' compensation commissioner by a preponderance of the evidence, that the employment of the individual was not the cause of his or her contracting COVID-19.

(d) For purposes of this section, the date of injury for an employee who has contracted COVID-19 shall be the date between March 10, 2020 and May 20, 2020 that the employee was first unable to work or died due to a diagnosis of COVID-19 or to symptoms that were diagnosed as COVID-19, whichever occurred first.

July 24, 2020

**9/18/2020**

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**WC Agency Notification**

Division of Workers' Compensation

**Pharmacy**

No Guidance Issued

**Medical**

The Division of Workers' Compensation has updated its tables to include the following new COVID-19 codes:

CPT 87635 IADNA SARS COV 2 COVID 19 Amplified Probe

HCPCS U0001 2019 NCOV Diagnostic P

HCPCS U0002 COVID 19 Lab Test NON CDC

ICD 10 CM U07.1 2019 NCOV Acute Respiratory Disease

Informational Memorandum OIR-20-05M 4.6.20

All Regulated Entities are reminded that section 440.09, Florida Statutes, requires an employer to provide workers' compensation coverage if the employee suffers a compensable injury arising out of work performed in the course and scope of employment. First responders, health care workers, and others that contract COVID-19 due to work-related exposure would be eligible for workers' compensation benefits under Florida law. See § 440.151, Fla Stat.

Insurers licensed to provide workers' compensation coverage in Florida are reminded of this statutory requirement, which must be applied on a non-discriminatory basis. The OIR expects workers' compensation insurers to comply with all of the provisions of Florida's Workers' Compensation Law and will take appropriate action in the event of non-compliance.

Florida Medical EDI Submitters:

Changes have been made to the Revision F Valid License Prefix document to include out-of-state telehealth provider license prefixes. Please note that while the requirement for out-of-state providers outlined in the Medical EDI Implementation Guide (MEIG) is 'ZZ9999999999', due to the current health crisis (COVID-19), the Division has updated its tables to allow for the actual telehealth license number to be reported. At this time, no changes have been made to our edits; therefore, if a bill is submitted and it rejects due to issues related to the telehealth license number reported, please reach out to the team for assistance.

**Telemed**

In response to the recent outbreak of COVID-19, the Division of Workers' Compensation is providing the following information related to telehealth and telemedicine services provided by licensed practitioners to workers' compensation patients under chapter 440, Florida Statutes.

All telehealth and telemedicine services are governed under the Florida Department of Health, section 456.47, Florida Statutes. Authorized services must be in compliance with section 456.47, Florida Statutes and Florida Department of Health Emergency Order 20-002.

The provision of telehealth and telemedicine services provided by licensed practitioners must be mutually agreed upon by the carrier and health care provider prior to treatment. Emergency services and care, defined in section 395.002, Florida Statutes, do not require prior authorization.

Carriers and health care providers should utilize national coding standards as adopted by the Centers for Medicaid and Medicare Services to accommodate the provision of telehealth and telemedicine services.

All telemedicine and telehealth services provided by health care practitioners should be billed with Place of Service Code (POS) 02 on the DFS-F5-DWC-09/CMS-1500 claim form.

Reimbursement is according to a mutually agreed upon contract amount or the listed Maximum Reimbursement Allowance (MRA) in the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2016 Edition.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES



### **WC Agency Notification**

Workers Compensation Board

### **Pharmacy**



No Guidance Issued

### **Medical**

No Guidance Issued

### **Telemed**

Telemedicine Guidance

Effective April 1, 2020, the Georgia State Board of Workers' Compensation (SBWC) is providing guidance for the provision of select services via telemedicine during the COVID-19 pandemic. The national and state health guidelines for limiting COVID-19 exposure recommend social distancing and avoiding all but essential public contact. Therefore, telemedicine is encouraged as a way to protect injured workers and healthcare providers from exposure to the coronavirus during medical appointments that do not require emergency treatment at a time when the health care system is over-extended. The guidance regarding telemedicine is subject to change at any time at the discretion of the SBWC. Reimbursement rates for telemedicine services prior to April 1, 2020, should be negotiated between the parties. For negotiation assistance, refer to the reimbursement rates in the 2019 Medical Fee Schedule that were in effect on the date of service. The procedure codes designated with a  are eligible services to be provided via telemedicine. Procedures Eligible To Be Provided Via Telemedicine The procedure codes designated with a  symbol are eligible to be provided via telemedicine if the patient is non-emergent and when the healthcare provider and the patient are in agreement to the medical appointment being handled via telemedicine. The maximum allowable reimbursement for telemedicine

services shall be the lesser of billed charges or the professional maximum allowable reimbursement (PROF MAR) amount as listed in The Georgia Workers' Compensation Medical Fee Schedule. Modifier 95, Synchronous Telemedicine Service Rendered Via a Real-Time Interactive Audio and Video Telecommunications System, should be

appended when reporting services provided via telemedicine.

### **9/18/2020**

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**WC Agency Notification**

ID Industrial Commission

**Pharmacy**

No Guidance Issued

**Medical**

No Guidance Issued

**Telemed**

Telehealth services in Idaho are governed by the Idaho Telehealth Access Act, under Title 54, Chapter 57, of Idaho code. The Idaho Workers' Compensation statutes under Title 72 of Idaho Code are silent as to Telehealth services, neither authorizing nor prohibiting them. Questions related to the delivery of Telehealth services may be directed to the Idaho Board of Medicine at [bom.idaho.gov](http://bom.idaho.gov).

For workers' compensation billing purposes, the Commission follows the CMS and AMA coding guidelines under the medical fee schedule set forth in IDAPA 17.01.01.803.01.b. For example, when billing for Telehealth services a provider may use place of service code 02 and/or Modifier -95, as appropriate to indicate the services were provided via Telehealth. Other codes and/or modifiers may be appropriate under certain circumstances.

We encourage Telehealth providers to collaborate with payers to facilitate proper documentation and billing to minimize any billing and payment issues.

The Idaho Industrial Commission adopted an order extending through June 30 emergency rules it put in place in March in response to the COVID-19 pandemic.

The amended order adopted Monday postpones all in-person hearings "unless the assigned hearing officer finds the proceedings, as currently scheduled, can be conducted and adequately recorded through telephonic or video means." The

order gives hearing officers discretion to complete or continue

hearings that are already in process. Any hearing not currently scheduled must be conducted by telephone or video until further notice, the order reads.

The commission's order also maintains a temporary amendment to procedural rules requiring attorneys to use electronic filing when possible.

And the order directs that a notice be posted at all public entry points to commission offices telling people not to enter if they've visited a high-risk country in the last 14 days or been in close contact with someone who has traveled to anywhere in the U.S. where there is widespread community transmission of the coronavirus that causes COVID-19; been diagnosed with COVID-19 or asked to self-quarantine; or have a fever, cough or shortness of breath.

The order is in effect through June 30 or until further notice from the commission.

The Industrial Commission implemented the emergency rules on March 23, 10 days after Gov. Brad Little declared a state of emergency and two days before he issued a statewide stay-at-home order.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# ID-More

### WC Agency Notification

#### Telemed

6.10.20

The above not new law, but is an agency interpretation of existing law.

While the Idaho Workers' Compensation statutes under Title 72 of Idaho Code do not expressly mention Telehealth services, the Commission views Telehealth services no differently than any other medical service under Idaho Code § 72-432.

For workers' compensation billing purposes, the Commission follows CMS and AMA coding guidelines under the medical fee schedule. IDAPA 17.01.01.803.01.b. This includes any coding guidelines for Telehealth services, just as it would for any other medical service. For example, when billing for a Telehealth service a provider may use place of service code 02 and/or Modifier -95, as appropriate to indicate the service was provided via Telehealth. Other codes and/or modifiers may be appropriate under certain circumstances.

We encourage providers that utilize Telehealth to collaborate with payers to facilitate proper documentation and billing to minimize any billing and payment issues.

**9/18/2020**

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**WC Agency Notification**

Workers Compensation Commission

**Pharmacy**

No Guidance Issued

**Medical**

4.13.20 Emergency Rule Notice-4.27.20 A circuit court judge has issued a temporary restraining order, halting the Illinois Workers' Compensation Commission's coronavirus emergency presumption rule

4.28.20 Two weeks after it adopted an emergency rule extending a COVID-19 presumption to all essential workers, the Illinois Workers' Compensation Commission voted Monday to rescind the order.

RESCINDED-Section 9030.70 Rules of Evidence EMERGENCY Amendment

6.8.20

Gov. J.B. Pritzker has signed into law a bill that creates a rebuttable COVID-19 presumption for police officers, firefighters, emergency medical technicians and health care providers. The presumption, found in House Bill 2455, covers employees working for essential businesses and workers who either interact with the public or work with more than 15 other employees. The presumption applies to COVID-19 diagnoses that occur between March 9 and Dec. 31.

**Telemed**

The Illinois Workers' Compensation Commission has posted new codes and modifiers for COVID-19 treatment and for telemedicine services. Six new current procedural terminology (CPT) codes were added to the medical fee schedule for testing and blood collection for the virus. The commission also released an expanded list of telemedicine services that should be billed using the modifier "95."

**9/18/2020**

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**WC Agency Notification**

Division of Workers' Compensation

**Pharmacy**

No Guidance Issued

**Medical**

Gov Beshear 4.9.20 Executive Order

Kentucky Gov. Andy Beshear has taken it to a new level, ordering a presumption that many more types of public- and private-sector workers sickened by COVID-19 contracted it through employment and are eligible for temporary total disability.

Beshear's executive order, posted Thursday, notes that health care workers, first responders, corrections officers, domestic violence shelter workers, child advocacy workers, rape crisis staff, grocery workers, some child care workers and even postal workers should receive wage-replacement benefits if kept away from work by a physician.

"It shall be presumed that" removal of those employees from the work setting "is due to occupational exposure to COVID-19," the order reads. The normal limitations of the state law, requiring a seven-day waiting period before benefits can be paid in most cases, have been suspended, Beshear noted. The workers are entitled to the disability benefits even if the employer ultimately denies the claim, the order reads.

Commissioner Exec Order 2020-277 Guidance for TTD 4.15.20

- (1) The Order applies only to the issue of payment of temporary total disability benefits under the circumstance in which a worker is removed from work by a physician due to occupational exposure to COVID-19, and has no application to resolution of any issue beyond the scope of the Order;
- (2) The Order is to be applied prospectively from April 9, 2020;
- (3) Temporary total disability benefits payable pursuant to the Order are subject to offset under KRS 342.730 (6) by virtue of FMLA benefits paid pursuant to the federal Families First Coronavirus Response Act;
- (4) Temporary total disability benefits payable pursuant to the Order are subject to offset under KRS 342.730(5) for unemployment benefits paid for the same period;
- (5) The Order does not extend benefits to workers who are not otherwise subject to coverage under the Kentucky Workers' Compensation Act;
- (6) A worker whose removal from work falls within the presumption of numerical paragraph three of the Order is eligible for benefits immediately upon removal. The employer or its payment obligor may not deny payment of benefits pursuant to the Order without evidence forming a good faith basis for denial. For example, if a grocery worker's spouse tests positive for COVID-19 and the worker is removed from work solely due to that exposure, the employer may deny the claim since the evidence rebuts the presumption that the exposure was occupational; and
- (7) A worker whose removal from work does not fall within the presumption of numerical paragraph three of the Order must establish that the removal is due to "occupational exposure" as that term is defined in numerical paragraph one of the Order. The employer or its payment obligor must promptly investigate the claim and may deny payment of benefits pursuant to the Order if it has a good faith basis for doing so. For example, a restaurant worker who is removed from work by a physician based on "exposure to COVID-19" without further explanation has not established "occupational exposure" and has not established entitlement to benefits.

No position stated herein shall be binding upon an Administrative Law Judge in the resolution of any claim arising under KRS Chapter 342.

**Telemed**

- (1) Medical treatment and services, including physical therapy, may be offered and performed via telehealth, as defined in KRS 304.17A-005 (47), or telephysical therapy, as defined in 201 KAR 22:001(25), when clinically appropriate in the judgment of a health care provider, for treatment of workplace injuries and occupational disease;
- (2) An injured worker shall have the right to decline to participate in telehealth and telephysical therapy;
- (3) In performing telehealth and telephysical therapy services, medical providers shall comply with all applicable state and federal statutes and regulations pertaining to such services;
- (4) A medical payment obligor shall reimburse telehealth or telephysical therapy providers for services provided to an injured worker. Reimbursement shall be equal to the reimbursement for the same service had it been provided in person unless the provider and the medical payment obligor contractually agree to a lower reimbursement rate for telehealth or telephysical therapy services.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# KY-More

### WC Agency Notification

#### Medical

The Department of Workers' Claims posted new billing codes for COVID-19 testing. Providers may now use Healthcare Common Procedure Coding System (HCPCS) codes U0001 or U0002 when submitting claims for testing for the respiratory disease. Any COVID-19 test administered in 2020 is eligible for reimbursement at \$45 to \$64 per test, the department said in an email. The codes and reimbursement will be published in the 2020 fee schedules, which take effect

July 1.

MEMO KY Dept of WC

Providers may use HCPCS code U0001 or U0002 when submitting claims for Covid-19 testing. Any Covid-19 test administered in 2020 is eligible for payment.

These codes and reimbursement rates will also be located in the 2020 edition of the Schedule of Fees, effective on July 1, 2020. This edition will remain effective until July 1, 2022.

Reimbursement for these codes are:

U0001 \$44.90

U0002 \$64.16

U0003 \$125.00

**9/18/2020**

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**WC Agency Notification**

Office of Workers' Compensation Administration

**Pharmacy**

Workers' compensation insurers shall allow injured workers to obtain refills of their prescriptions—even if the prescription was recently filled—for at least a 30-day supply and up to a 90-day supply of medication, consistent with approval from a patient's health care provider or pharmacist, and patient has an authorized refill order.

- If an injured worker requests that mail-order prescriptions be mailed to an alternate address, insurer should consider doing so.
- Time restrictions on prescription medication refills shall be waived; this is to include suspension of electronic "refill too soon" edits to pharmacies, enabling injured workers or subscribers to fulfill prescriptions in advance, if there are authorized refills remaining.

Meanwhile, if a prescription is not for a Schedule II drug, the workers' compensation insurer shall authorize payment to pharmacies for at least a 30-day supply of a prescription medication when:

- Refill order expired within 90 days of date the request to refill prescription is made;
- Medication is essential to maintenance of life or to continuation of therapy in a chronic condition;
- In the pharmacist's professional judgment, interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort.

Dispensing pharmacist shall notify prescriber of any emergency dispensing within a reasonable time after such dispensing. Pharmacists are allowed to refill most medications, one time, with a 30-day supply, even though pharmacist can't reach patient's physician.

To that end, the LWC issued this emergency rule on Thursday, March 19, 2020 to be effective from 12:01 a.m. on March 19, 2020 to 12:01 a.m. on April 13, 2020. The Emergency Rule can be found at: <https://www.doa.la.gov/Pages/osr/emr/emr.aspx>

**Medical**

Workers' compensation insurers should accept an approved LWC-WC 1010 for longer than 30 days, especially if a treatment facility is closed because of COVID-19.

Bulletin 4.5.20 LA Workforce Commission Dept of Labor

TELEPHONE OFFICE VISITS (Update)

In light of the Novel Coronavirus (COVID-19) outbreak, the Office of Workers' Compensation Administration (OWCA) at the Louisiana Workforce Commission (LWC) is providing this bulletin to ensure that workers' compensation carriers, both domestic and foreign, are aware that the existing Louisiana Medical Fee Reimbursement Schedule currently has three Non Face-to-Face CPT codes that can be used by physicians to bill for telephone office visits, to-wit:

CPT 99441, 99442 and 99443

These codes may be used when a physician provides telephone evaluation or maintenance (E/M) service to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment. The above-referenced codes allow the physician to bill for telephone services that last from 5 -10 minutes, 11 - 20 minutes or 21 - 30 minutes, respectively.

There are also three Non Face-to-face CPT codes that can be used by non-physicians to bill for telephone office visits, to-wit:

CPT 98966, 98967 and 98968

These codes may be used for telephone assessment and management service provided by a qualified non-physician health care professional to an established client, parent or guardian. The above-referenced codes allow the non-physician health care professional to bill for telephone services that last from 5 -10 minutes, 11 - 20 minutes or 21 - 30 minutes, respectively.

During this perilous time, the OWCA encourages the use of these codes to improve the health of injured workers, to help those who need routine care and to keep vulnerable patients with mild symptoms in their homes while maintaining access to the care they need. Use of these codes do NOT negate use of other CPT codes which currently exist in the Medical Fee Reimbursement Schedule, L.A.C. Title 40, or any current Emergency Rule, establishing new CPT codes, where applicable.

REVISED RULE 40 4.6.20 in effect through May 12.

§4003. Applicability and Scope

A. Emergency Rule 40 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers' compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners', credit life, health and accident credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 40 to health and accident insurance is specified in §4003.B.

§4005. Cancellation, Nonrenewal, and Nonreinstatement

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES



A. Emergency Rule 40 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the kinds of insurance enumerated in §4003 that was in force and effect at 12:01 a.m. on March 12, 2020, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of

Emergency Rule 40 as provided for in §4043.

B. Insurers may issue a notice of cancellation for nonpayment of premium during the pendency of Emergency Rule 40. When any such notice is issued during the pendency of Emergency Rule 40, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for non-payment of premium until after the expiration of Emergency Rule 40.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or occurs during the COVID-19 emergency.

### **Telemed**

4.5.20 BULLETIN In light of the Novel Coronavirus (COVID-19) outbreak, the Office of Workers' Compensation Administration (OWCA) at the Louisiana Workforce Commission (LWC) is providing this bulletin to ensure that workers' compensation carriers, both domestic and foreign, are aware that the existing Louisiana Medical Fee Reimbursement Schedule currently has three Non Face-to-Face CPT codes that can be used by physicians to bill for telephone office visits

**9/18/2020**

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**WC Agency Notification**

Office of Workers Compensation

**Pharmacy**

April 9, 2020 Emergency Rule:

§2902. Effective Date

A. Emergency Rule shall become effective at 12:01 a.m. on March 19, 2020 and shall continue in full force and effect for the maximum time period allowed under the Administrative Procedure Act or for the period of the Governor's Stay-at Home Order, whichever shall end first.

§2903. Prescription Drug Coverage

A. Workers' compensation insurers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled

**Medical**

Office of Workers Compensation issues 2nd Emergency Rule 4.5.20

The rule provides for the following during any period of time for which the Governor has declared a state of emergency:

- Workers' compensation insurers should accept the use of modifier 95 to note telehealth/telemedicine methods.
- Additional temporary codes for General Medicine can be used, where applicable:
  - 90791 PSYCHIATRIC DIAGNOSTIC EVALUATION
  - 90792 PSYCHIATRIC DIAGNOSTIC EVAL W/MEDICAL SERVICES
  - 90832 PSYCHOTHERAPY W/PATIENT 30 MINUTES
  - 90833 PSYCHOTHERAPY W/PATIENT W/E&M SRVCS 30 MIN
  - 90834 PSYCHOTHERAPY W/PATIENT 45 MINUTES
  - 90836 PSYCHOTHERAPY W/PATIENT W/E&M SRVCS 45 MIN
  - 90837 PSYCHOTHERAPY W/PATIENT 60 MINUTES
  - 90838 PSYCHOTHERAPY W/PATIENT W/E&M SRVCS 60 MIN
  - 90863 PHARMACOLOGIC MANAGEMENT W/PSYCHOTHERAPY
  - 92521 EVALUATION OF SPEECH FLUENCY (STUTTER CLUTTER)
  - 92522 EVALUATION OF SPEECH SOUND PRODUCTION ARTICULATE
  - 92523 EVAL SPEECH SOUND PRODUCT LANGUAGE COMPREHENSION
  - 92524 BEHAVIORAL & QUALIT ANALYSIS VOICE AND RESONANCE
  - 96105 ASSESSMENT APHASIA W/INTERP & REPORT PER HOUR
  - 96156 HEALTH BEHAVIOR ASSESSMENT/RE-ASSESSMENT
  - 96158 HEALTH BEHAVIOR IVNTJ INDIV F2F 1ST 30 MIN
  - 96159 HEALTH BEHAVIOR IVNTJ INDIV F2F EA ADDL 15 MIN
  - 97129 THER IVNTJ COG FUNCJ CNTCT 1ST 15 MINUTES
  - 97130 THER IVNTJ COG FUNCJ CNTCT EA ADDL 15 MINUTES
- Additional temporary codes for Physical Medicine can be used, where applicable:
  - 97161 PHYSICAL THERAPY EVALUATION LOW COMPLEX 20 MINS
  - 97162 PHYSICAL THERAPY EVALUATION MOD COMPLEX 30 MINS
  - 97163 PHYSICAL THERAPY EVALUATION HIGH COMPLEX 45 MINS
  - 97164 PHYSICAL THERAPY RE-EVAL EST PLAN CARE 20 MINS 4/5/2020
  - 97165 OCCUPATIONAL THERAPY EVAL LOW COMPLEX 30 MINS
  - 97166 OCCUPATIONAL THERAPY EVAL MOD COMPLEX 45 MINS
  - 97167 OCCUPATIONAL THERAPY EVAL HIGH COMPLEX 60 MINS
  - 97168 OCCUPATIONAL THER RE-EVAL EST PLAN CARE 30 MINS
- Additional temporary codes for Evaluation and Management can be used, where applicable:
  - 99495 TRANSITIONAL CARE MANAGE SRVC 14 DAY DISCHARGE
  - 99496 TRANSITIONAL CARE MANAGE SRVC 7 DAY DISCHARGE
- These additional codes are listed as "By Report" (BR) for maximum reimbursement. Please review current L.A.C. 40:1.5125 Special Instructions if not familiar with BR.

**9/18/2020**

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**WC Agency Notification**

Dept of Industrial Accidents

**Pharmacy**

Administrative Bulletin 20-64

101 CMR 331.00: Prescribed Drugs

Effective June 17, 2020

Payment Adjustment to Professional Dispensing Fee

Purpose, Scope, and Effective Period

The Executive Office of Health and Human Services (EOHHS) is issuing this administrative bulletin pursuant to the authority of COVID-19 Order #20: Order Authorizing the Executive Office of Health and Human Services to Adjust Essential Provider Rates During the COVID-19 Public Health Emergency and Executive Order 591: Declaration of State of Emergency to Respond to COVID-19. EOHHS is establishing a payment adjustment to the professional dispensing fee set forth in 101 CMR 331.06 when medications are delivered to a member's personal residence.

The payment adjustment begins for dates of service on or after April 28, 2020, and will remain effective for the duration of the state of emergency declared via Executive Order No. 591.

Disclaimer: This administrative bulletin is not authorization for a provider's use of the payment adjustment to the professional dispensing fee. Authorization for the provision of, and billing and payment for, pharmacy services is pursuant to the MassHealth pharmacy services regulations at 130 CMR 406.00: Pharmacy Services and other applicable MassHealth provider regulations and subregulatory guidance, including Pharmacy Facts 145. Payment Adjustment to Professional Dispensing Fee

Effective for dates of service beginning April 28, 2020, and notwithstanding the professional dispensing fee set forth in 101 CMR 331.06, eligible providers will receive a payment adjustment to the professional dispensing fee equal to the lower of the provider's usual and customary charge for prescription delivery or \$8.00 when medications are delivered to a member's personal residence in accordance with the requirements described in Pharmacy Facts 145.

**Medical**

No Guidance Issued

**Telemed**

4.17.20 Pursuant to Governor Baker's State of Emergency Order in response to the COVID-19 pandemic, telehealth services will be allowed under M. G. L. c. 152 § 13(1) and § 30, and are effective for services beginning March 16, 2020 and will remain in place until the State of Emergency has been lifted by Governor Baker.

If the treatment has been deemed reasonable, necessary, and appropriate, the codes and rates for services as outlined in 114.3 CMR 40.00 shall be utilized. The Place of Service (POS) code shall be "02" to denote that the service has been delivered via telehealth.

The Department is not imposing specific requirements for technologies used to deliver services via telehealth. However, health care practitioners must inform patients of any relevant privacy considerations.

The Department of Industrial Accidents also posted a bulletin detailing reimbursement rates, codes and modifiers for telemedicine services. Most services will follow the same rates and codes as in-person services, but the place-of-service code should be 02. "The department is not imposing specific requirements for technologies used to deliver services via telehealth," the bulletin reads. "However, health care practitioners must inform patients of any relevant privacy considerations."

**9/18/2020**

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**WC Agency Notification****Pharmacy**

No Guidance Issued

**Medical**

Administrative Order 2020-02

NOW THEREFORE, pursuant to the authority granted the Chairman of the Commission by COMAR 14.09.17 and in accordance with the Executive Order issued by Governor Hogan on March 12, 2020, entitled Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements, it is this 1st day of May, 2020, hereby

ORDERED that

1. Pursuant to COMAR 14.09.17.03A, all statutory and regulation deadlines related to the initiation of matters required to be filed with the Maryland Workers' Compensation Commission, including statutes of limitations, shall be tolled or suspended, as applicable, effective nunc pro tunc March 16, 2020, by the number of days that the Commission remains closed to the public due to the COVID-19 emergency by order of the Chairman of the Commission; and
  2. Pursuant to COMAR 14.09.17.03A, all statutory and regulation deadlines related to requirements by workers' compensation insurers to provide certain notice to insureds concerning the termination, renewal, or re-issuance of workers' compensation policies are relaxed to extent that no penalty for technical non-compliance will be imposed by the Commission; and
  3. Justice requires that the ordering of the suspension of such deadlines during an emergency as sweeping as a pandemic be applied consistently and equitably throughout Maryland, and no party or parties shall be compelled to prove his, her, its, or their practical inability to comply with such a deadline if it occurred during the COVID-19 emergency to obtain the relief that this Administrative Order provides; and
  4. Such deadlines further shall be extended by a period of 30 days beyond the end of the state of emergency, as evidenced by an order reopening the Commission to receive in-person filings at its Baltimore office; and
  5. Any such filings made within the period to be described above shall relate back to the day before the deadline expired. ORDERED that these procedures will remain in place temporarily until it is determined to be safe to remove them; and it is further
- ORDERED that this Order shall be updated as further guidance is received.

On March 5, 2020, Governor Larry Hogan issued a Proclamation declaring a State of Emergency and that a Catastrophic Health Emergency exists in the State of Maryland. The Proclamation was renewed on May 6, 2020, June 3, 2020, July 1, 2020, July 31, 2020, and August 10, 2020.

**Telemed**

No Guidance Issued

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# ME

### **WC Agency Notification**

Workers' Compensation Board

### **Pharmacy**

No Guidance Issued

### **Medical**

The WCIO has updated the Injury Description Tables that are used by the IAIABC to reflect specific coding in response to COVID-19.

A new Cause of Injury Code (DN0037) - 83 for "Pandemic" and a new Nature of Injury Code (DN0035) - 83 for "COVID-19" were approved. The codes are anticipated to be used for the reporting for any claim effective December 2019 or later. The IAIABC recommends that EDI reporting and collection systems be modified to recognize these new codes by April 1, 2020.

The Maine Workers' Compensation Board has made the necessary modifications and is now accepting the new codes recommended by the IAIABC.

### **Telemed**

Maine WCB FAQ 3.27.20

Can healthcare providers submit bills for telemedicine services?

Yes, healthcare providers may bill for telemedicine services.

### **9/18/2020**

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**WC Agency Notification**

Workers' Disability Compensation Agency

**Pharmacy**

No Guidance Issued

**Medical**

- Carriers are encouraged to work with providers to consider all options to provide an injured worker with appropriate and reasonable care, including telerehab options.
- When appropriate, the carrier is encouraged to modify its payment and coverage policies regarding telemedicine furnished by physical, occupational, and speech therapists in accord with their professional scope of practice, to ensure that patients continue to have access to the rehabilitative care they need amid the COVID-19 pandemic.
- If a carrier and provider determine telerehab is in the best interest of the injured worker, the Agency encourages reimbursement rates for telerehab services that mirror payment rates for an equivalent service provided in person or that providers and carriers quickly agree on reasonable reimbursement rates.
- The Agency notes that while the Health Care Services Rules prescribe a 3% late fee if a carrier does not reimburse the provider within 30 days of receipt of a properly submitted bill, it is advised that this penalty be waived during government imposed COVID-19 restrictions

Emergency Rules 2020 MR 5-4.1.20

The Director, therefore, finds that the preservation of the public health, safety, and welfare requires the promulgation of emergency rules as provided in section 48 of the administrative procedures act of 1969 (APA), 1969 PA 306, MCL 24.248, without following the notice and participation procedures required by sections 41 and 42 of the APA, MCL 24.241 and 24.242.,

Rule 1. (1) These rules apply to first response employees that are exposed to COVID-19.

(2) A first response employee suffers a personal injury that arises out of and in the course of employment if the first response employee meets 1 of the following criteria:

- (a) Is quarantined at the direction of the employer due to confirmed or suspected COVID-19 exposure. (b) Receives a COVID-19 diagnosis from a physician. (c) Receives a presumptive positive COVID-19 test. (d) Receives a laboratory-confirmed COVID-19 diagnosis. Rule 2. (1) As used in these rules, "first response employee" means any of the following: (a) A person working in a health facility or agency as defined in the public health code, 1978 PA 368, MCL 333.1101 to 333.25211. (b) A person working in a health care organization as defined in R 418.10108(x). (c) A person working in an industrial medicine clinic as defined in R 418.10108(bb). (d) A person working as a practitioner as defined in R 418.10109(l). (e) A person working in a capacity described in section 161(1)(c) to (j) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.161(1)(c) to (j). (f) A member of the state police or an officer of the motor carrier enforcement division of the department of the state police. (2) A denial of a claim under these rules presumptively creates non-compliance with the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and is subject to penalties under section 631 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.631.

The Workers' Disability Compensation Agency has updated the WC-701 form filing instructions to include the new COVID-19 injury code (083)

**Telemed**

The Workers' Disability Compensation Agency (the Agency) expects carriers to provide increased access to health care services through telemedicine delivery platforms and to encourage patients to use telemedicine delivery options to limit the amount of in-person health care services they seek.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# MI-More

### WC Agency Notification

#### Medical

##### EMERGENCY RULES

Filed with the Secretary of State on March 30, 2020

Unless proven otherwise, a first response employee suffers a personal injury that arises out of and in the course of employment if the first response employee is diagnosed with COVID-19, whether by a physician or as a result of a test. Denial of a claim by a first response employee diagnosed with COVID-19 violates the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and is subject to the penalties provided by section 631 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.631, unless the denial is based on specific facts demonstrating that the first response employee was not exposed to COVID-19 at work.

##### Rule 2. Definition.

(1) As used in these rules, "first response employee" means any of the following:

- (a) A person working in ambulance operations and advanced mobile emergency care services, county medical care facilities, emergency services, emergency medical services, homes for the aged, hospices, hospitals, or nursing homes.
- (b) A person working in a home health agency or visiting nurse association.
- (c) Any person working as a physician, physician assistant, nurse, emergency medical technician, paramedic, or respiratory therapist.
- (d) Any police officers, fire fighters, emergency medical technicians, on-call members of a fire department, volunteer civil defense workers, on-call members of a life support agency, or members of an emergency rescue team, as those terms are used in the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.
- (e) A member of the state police or an officer of the motor carrier enforcement division of the department of the state police.
- (f) A state correctional officer or local corrections officer.

##### Rule 3. Application of other rules.

These emergency rules supersede the entirety of the emergency rules filed March 18, 2020.

#### 9/18/2020

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**WC Agency Notification**

Governor Exec Order 2020-125

**Medical**

EXECUTIVE ORDER

No. 2020-125

Clarifying WDCA Eligibility for Workplace Exposure to COVID-19

1. "COVID-19-response employee" means an employee whose job responsibilities require them to have regular or prolonged contact with COVID-19 in the course of their employment. For purposes of this order, the following individuals are COVID-19-response employees:

(a) A person who is required to report to work in one of the following workplaces:

(1) An ambulance operation, as that term is defined in section 20902(5) of the Public Health Code, 1978 PA 368, as amended, MCL 333.20902(5), including advanced mobile emergency care services;

(2) A county medical care facility, as that term is defined in section 20104(3) of the Public Health Code, MCL 333.20104(3);

(3) An emergency response service, as that term is defined in section 102(m) of the Emergency 9-1-1 Service Enabling Act, 1986 PA 32, as amended, MCL 484.1102(m);

(4) A home for the aged, as that term is defined in section 20106(3) of the Public Health Code, MCL 333.20106(3);

(5) A hospice, as that term is defined in section 20106(4) of the Public Health Code, MCL 333.20106(4);

(6) A hospital, as that term is defined in section 20106(5) of the Public Health Code, MCL 333.20106(5); or

(7) A nursing home, as that term is defined in section 20109(1) of the Public Health Code, MCL 333.20109(1).

(b) A person working in a home health agency, as that term is defined in section 20173a(15)(f) of the Public Health Code, MCL 333.20173a(15)(f), or a visiting nurse association, who is required to provide in-person medical care to patients.

(c) In addition to those persons identified in section 3(a) and (b) of this order, any person working as a physician, physician assistant, licensed practical nurse, registered professional nurse, medical first responder, nurse, emergency medical technician, emergency medical technician specialist, paramedic, or respiratory therapist who is required to provide in-person medical care to patients.

(d) A law enforcement officer, as that term is defined in section 2(f) of the Michigan Commission on Law Enforcement Standards Act, 1965 PA 203, as amended, MCL 28.602(f), to the extent the law enforcement officer is required to report to work and interact with the general public.

4

(e) A motor carrier officer within the Michigan Department of State Police as described in section 6d of the Michigan State Police Act, 1935 PA 59, as amended, MCL 28.6d.

(f) A firefighter, as that term is defined in section 1(n) of the Fire Prevention Code, 1941 PA 207, as amended, MCL 29.1(n).

(g) A member of an emergency rescue team, as described in section 161(j) of the WDCA, MCL 418.161(j), to the extent that the member is required to report to work and interact with the general public.

(h) A volunteer civil defense worker, as described in section 161(g) of the WDCA, MCL 418.161(g), to the extent that the worker is required to report to work.

(i) An on-call member of a life support agency, as described in section 161(h) and (i) of the WDCA, MCL 418.161(h) and (i), to the extent the member is required to report to work.

(j) A state or local government employee that is required to work within the secured perimeter of a penal institution, including but not limited to correctional facilities, jails, and detention centers.

2. For purposes of the WDCA, and subject to rebuttal by specific facts to the contrary, a first-response employee who is confirmed as COVID-19 positive on or after March 18, 2020, either by physician or by test, shall be presumed to have suffered a "personal injury," as that term is defined by section 401(2)(b) of the WDCA, MCL 418.401(2)(b).

**9/18/2020**

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**WC Agency Notification**

Workers Compensation

**Pharmacy**

Memorandum to Pharmacy Benefit Managers (PBMs) Related to Coronavirus (COVID-19)

Date: May 19, 2020

To: Pharmacy Benefit Managers Licensed in Minnesota

From: Commissioner Steve Kelley

Given the current public health crisis, and the emphasis on self-isolation and social distancing, the Department recommends that any requirements placed on pharmacists by PBMs or Plan Sponsor to ensure person to person delivery of prescription drugs be relaxed in favor of delivery methods that minimize contact.

**Medical**

4.7.20 Minnesota Statute revised language:

(f) Notwithstanding paragraph (a) and the rebuttable presumption for infectious or communicable diseases in paragraph (b), an employee who contracts COVID-19 is presumed to have an occupational disease arising out of and in the course of employment if the employee satisfies the requirements of clauses (1) and (2).

(1) The employee was employed as a licensed peace officer under section 626.84, subdivision 1;; firefighter;; paramedic;; nurse or health care worker, correctional officer, or security counselor employed by the state or a political subdivision at a corrections, detention, or secure treatment facility;; emergency medical technician;; a health care provider, nurse, or assistive employee employed in a health care, home care, or long-term care setting, with direct COVID-19 patient care or ancillary work in COVID-19 patient units;; and workers required to provide child care to first responders and health care workers under Executive Order 20-02 and Executive Order 20-19.

(2) The employee's contraction of COVID-19 must be confirmed by a positive laboratory test or, if a laboratory test was not available for the employee, as diagnosed and documented by the employee's licensed physician, licensed physician's assistant, or licensed advanced practice registered nurse (APRN), based on the employee's symptoms. A copy of the positive laboratory test or the written documentation of the physician's, physician assistant's, or APRN's diagnosis shall be provided to the employer or insurer.

Rehabilitation consultations: Until further notice, the Department of Labor and Industry (DLI) will not take any enforcement action under Minnesota Rules 5220.0130 against any qualified rehabilitation consultant (QRC) who conducts a rehabilitation consultation with an injured worker by telephone or video, rather than in person. DLI encourages QRCs to limit in-person meetings and implement social-distancing measures when providing a rehabilitation consultation and other rehabilitation services to injured workers. Placement vendors and their staff members, who meet with injured workers, are also encouraged to conduct meetings by phone or video.

An employee is entitled to the presumption if they contract COVID-19 on or after April 8, 2020, while employed in one of these occupations:

- a licensed peace officer under Minnesota Statutes, section 626.84, subdivision 1, a firefighter, a paramedic or an emergency medical technician;
- a nurse or health care worker, correctional officer or security counselor employed by the state or a political subdivision (such as a city or county) at a corrections, detention or secure treatment facility;
- a health care provider, nurse or assistive employee employed in a health care, home care or long-term care setting, with direct COVID-19 patient care or ancillary work in COVID-19 patient units; and
- a person required to provide child care to first responders and health care workers under Executive Orders 20-02 and 20-19

**Telemed**

No Guidance Issued

**9/18/2020**

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**WC Agency Notification**

Governor Parson

**Pharmacy**

No Guidance Issued

**Medical**

CSR 50-5.005 Presumption of Occupational Disease for First Responders

April 7, 2020, the Department of Labor and Industrial Relations with its Division of Workers' Compensation filed an emergency rule under the workers' compensation statute to provide a presumption that first responders contracting COVID-19 were infected in the course of their employment. The Labor and Industrial Relations Commission voted unanimously to approve the emergency rule.

This emergency

rule was filed April 8, 2020, becomes effective April 22, 2020, and expires February 1, 2021.

(1) A First Responder, defined as a law enforcement officer, firefighter or an emergency medical technician (EMT), as such occupations are defined in Section 287.243, who has contracted or is quarantined for COVID-19, is presumed to have an occupational disease arising out of and in the course of their employment. Such presumption shall include situations where the First Responder is quarantined at the direction of the employer due to suspected COVID-19 exposure, or

the display of any COVID-19 symptoms, or receives a presumptive positive COVID-19 test, or receives a COVID-19 diagnosis from a physician, or receives a laboratory-confirmed COVID-19 diagnosis.

(2) The presumption set forth in section (1) shall retroactively apply to all First Responders who otherwise meet the requirements set forth in this emergency rule.

(3) A First Responder is not entitled to the presumption in section (1) if a subsequent medical determination establishes by clear and convincing evidence that the First Responder did not actually have COVID-19, or contracted or was quarantined for COVID-19 resulting from exposure that was not related to the First Responder's employment.

(4) The provisions of this emergency rule shall cease to be in effect at the expiration of the state of emergency declared in Executive Order 20-02 or any successor executive order extending the state of emergency, whichever occurs later, or upon the expiration of this emergency rule as set forth in Chapter 536.

**Telemed**

No Guidance Issued

**9/18/2020**

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**WC Agency Notification**

Workers' Compensation Commission

**Pharmacy**

No Guidance Issued

**Medical**

Telephone Evaluation and Management Codes

99441 Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 5-10 minutes of medical discussion Professional Allowable Amount: \$17.84

99442 Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 11-20 minutes of medical discussion Professional Allowable Amount: \$34.77

99443 Telephone evaluation and management service by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment; 21-30 minutes of medical discussion Professional Allowable Amount: \$51.24

4.8.20

Telemedicine:

The MWCC has authorized the expansion of the MWCC Fee Schedule's electronic communication rule via Telemedicine/Telehealth/Virtual services to workers' compensation patients not only to physicians but also to include the following: physician assistants, nurse practitioners, physical therapists, occupational therapists, speech therapists, psychiatrists, clinical psychologists, dietitians who are licensed to practice in Mississippi. Reimbursement for services provided via Telemedicine/Telehealth/Virtually shall not be denied by workers' compensation payors for CPT codes noted with a star icon and billed with Modifier 95. These codes are listed in Appendix P of the CPT manual and will be posted separately on the MWCC website. Additionally, CPT codes for services that are typically billed by PT/OT/ST on pages 295 and 296 of the 2019 Fee Schedule are authorized to be provided via electronic communication

IME/EME Telemedicine

At this time, the Commission will not approve telemedicine Independent Medical Examinations or Employer Medical Examinations at this time.

**Telemed**

Telemedicine services in Fee Schedule including limitations on use of audio only consultations, any requirement that limits coverage to providers in a certain telemedicine network, requirement that limits coverage to consultations only are suspended until 6.30.2020. For routing eval and management, providers may bill these codes up to level 4 regardless of telephonically or visual equipment used. Providers may bill for telephonic when provider speaks directly, may not bill for nurse of office staff consultation.

3.24.20 Limitations applicable to telemedicine services found in the Fee Schedule are suspended until June 30, 2020.

6.25.20 This emergency change to the Fee Schedule extends through September 28, 2020.

Telemedicine:

The Commission expanded the Fee Schedule's telemedicine/telehealth/virtual services rule to include not a physician, but also physician assistants, nurse practitioners, physical therapists, occupational therapists, speech therapists, psychiatrists, clinical psychologists, and dietitians who are licensed to practice in Mississippi. Payors shall not deny reimbursement for telemedicine services for CPT codes with a star icon and billed with Modifier 95. These codes are listed in Appendix P of the CPT manual and are also posted on the Commission's website. Additionally, services typically billed by physical, occupational and speech therapists and described by CPT codes on pages 295 and 296 of the 2019 Fee Schedule may be provided electronically. Please also see the Commission's March 24, 2020, Bulletin Regarding Telemedicine During the COVID-19 Crisis which is posted on the front page of the Commission's website. This emergency change to the Fee Schedule extends through December 24, 2020.

**9/18/2020**

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**WC Agency Notification**

Montana Dept of Labor & Industry

**Pharmacy**

The Montana Department of Labor & Industry, Employment Relations Division recently distributed a letter (dated yesterday) to certified claims examiners in the state formally requesting they wait until the COVID-19 crisis passes before requiring compliance on legacy claims under the state's drug formulary regulations. Specifically, the notice states the following: "Given the immediate crisis of COVID-19 and the overload to our healthcare system, the Department is formally requesting all TPAs and insurers delay adherence to the Drug Formulary requirements for Legacy Claims until the COVID-19 crisis passes"

**Medical**

No Guidance Issued

**Telemed**

Telehealth-based delivery of care is available in Montana workers' compensation system, for use at discretion of treating provider.

To facilitate safe delivery of health care services to patients throughout the COVID-19 state of emergency, the DL&I communicates temporary changes to previously existing approach to telemedicine. Changes are based on guidance contained in the Governor's 3-20-20 Directive Implementing Executive Orders 2-2020 and 3-2020 providing for expanded telemedicine. Specifically, DL&I wants its customers to know the following:

- 1) Expanded definition of telemedicine services allows to include telephone only and live chat modalities (e.g., video and audio, audio only, or other electronic media).
- 2) Dissemination of billing codes to provide reimbursement for telehealth-based services.

The patient and provider may communicate by their personal telephone, computer or other electronic device using communication technologies such as Facetime or Skype.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

NC

### **WC Agency Notification**

NC Industrial Commission

### **Pharmacy**

No Guidance Issued

### **Medical**

Evaluation & Management visits conducted via telehealth can be billed using the same Evaluation & Management codes that are used for an in-person office visit, except that "02" should be used as the "Place of Service" code. For any services with CPT codes that do not have a specific fee schedule amount, the charges would be paid per agreement between the carrier and medical provider

As with any dispute regarding medical treatment, the injured employee may file a medical motion with the Industrial Commission asking the Commission to order the carrier or third-party administrator to authorize and pay for the telehealth visit.

### **Telemed**

Neither the Workers' Compensation Act nor any Industrial Commission Rules disallow telehealth

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# ND

### **WC Agency Notification**

Executive Order of the Governor

### **Pharmacy**

No Guidance Issued

### **Medical**

Exec Order 2020-12 Effective March 13, 2020, First Responders health care workers and all occupations included under NDCC 65-01-02 (11)(b)(1) who are exposed to COVID 19 in the course of employment may file for workers compensation coverage and may be eligible for up to fourteen days of wage replacement and medical coverage if quarantined.

4.17.20 WSI is temporarily extending the filing timeframe from 30 days to 60 days for appealing a previously reduced or denied medical bill. Due to the COVID-19 pandemic, many providers have transitioned to working from home, which WSI recognizes may cause a delay in submitting a Medical Bill Appeal (M6) form.

### **Telemed**

Are telemedicine services eligible for reimbursement?

Yes. Workforce Safety and Insurance (WSI) is temporarily expanding eligible telemedicine services during the duration of the emergency declaration.

Does WSI's expansion of eligible telehealth services include therapy?

Yes, therapy services applicable to a remote environment will be allowed.

### **9/18/2020**

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**WC Agency Notification**

Executive Order of the Governor

**Pharmacy**

No Guidance Issued

**Medical**

Executive Order 2020-16

Seventh Extension of State of Emergency Declared in Executive Order 2020-04

WHEREAS, since March 13, 2020, during the State of Emergency, the Governor issued emergency orders that, among other things, (i) required public K-12 schools to transition to remote instruction and support, (ii) prohibited scheduled gatherings of 10 or more, (iii) required restaurants and bars to transition to take-out and delivery only, (iv) temporarily prohibited disconnection or discontinuance of certain services, including public utilities, in the event of non-payment, (v) temporarily prohibited evictions and foreclosures, (vi) dramatically expanded access to State unemployment benefits for individuals impacted by COVID-19, (vii) closed nonessential businesses and mandate that Granite Staters stay home with limited exceptions, (viii) expanded access to Telehealth Services to protect the public and health care providers, and (ix) restricted hotels and other lodging providers to provision of lodging for vulnerable populations and essential workers;

WHEREAS, since April 24, 2020, during the State of Emergency, the Governor issued additional emergency orders that, among other things, (i) temporarily authorized health partners to assist in responding to COVID-19 in long-term care facilities (ii) ensured worker's compensation coverage for New Hampshire first responders exposed to COVID-19, (iii) authorized additional Medicaid eligibility for the uninsured, and (iv) authorizing flexibility to school boards and school districts in order to remain operational

Seventh Extension 21 days from 8.5.20

**Telemed**

No Guidance Issued

**9/18/2020**

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**WC Agency Notification**

Department of Banking and Insurance Trenton, NJ

**Pharmacy**

No Guidance Issued

**Medical**

SENATE, No. 2380

STATE OF NEW JERSEY

219th LEGISLATURE

This bill creates a presumption that coronavirus disease 2019 infections contracted by essential employees, including but not limited to, health care workers and public safety workers, are work-related for the purpose of employment benefits provided for work-related injuries and illnesses, including but not limited to, workers' compensation benefits.

Additionally, this bill provides that an essential employee's absence from work due to the employee contracting or being exposed to coronavirus disease 2019 will be considered on duty time, and an employer is prohibited from charging the employee any paid leave for the absence.

The bill defines "essential employee" as (1) an employee who is essential in support of gubernatorial or federally declared statewide emergency response and recovery operations; or (2) an employee in the public or private sector with duties and responsibilities, the performance of which is essential to the public's health, safety, and welfare.

The bill will be retroactive to March 9, 2020, the date of Governor Murphy's declaration of state of emergency with respect to the coronavirus disease 2019 pandemic.

**Telemed**

BULLETIN NO. 20-19

TO: ALL AUTOMOBILE INSURERS THAT PROVIDE MEDICAL EXPENSE BENEFITS UNDER PERSONAL INJURY PROTECTION COVERAGE IN THIS STATE

Effective immediately and continuing for the duration of the state of emergency and public health emergency declared pursuant to EO 103, the Department is requiring that PIP carriers:

- review or establish their telemedicine and telehealth networks to ensure adequacy given the increased demand;
- encourage network providers to utilize telemedicine or telehealth services wherever possible and clinically appropriate to diagnose and treat PIP injuries during the ongoing public health emergency, in order to minimize exposure of provider staff and other patients to those who may have the COVID-19 virus;
- update their procedures to include reimbursement for telehealth services that are provided by a provider in any manner that is practicable and appropriate, including by telephone. PIP carriers should disseminate information on their website, or other reasonable means, to notify individuals of these updates. This would include the use of telephone-only communications to establish a physician-patient relationship and the expanded use of telehealth for the diagnosis, treatment, ordering of tests, and prescribing. PIP carriers are required to update telehealth policies to include telephone-only services within the definition of telehealth;
- reimburse providers that deliver covered services to claimants via telemedicine or telehealth in accordance with this guidance. Carriers may establish requirements for such telemedicine and/or telehealth services, similar to those developed by health insurance carriers in accordance with P.L. 2020, c.3, and guidance issued by the Department, including documentation and recordkeeping, but such requirements may not be more restrictive than those for in-person services. Carriers are not permitted to impose any specific requirements on the technologies used to deliver telemedicine and/or telehealth services (including any limitations on audio-only or live video technologies) during the state of emergency and public health emergency declared pursuant to EO 103;
- ensure that the payment to providers for services delivered via telemedicine or telehealth are not lower than would typically be paid for services rendered via traditional (i.e., in-person) methods, and PIP carriers must notify providers of any instructions that are necessary to facilitate billing for such telehealth services;
- may not impose any restriction on the reimbursement for telehealth or telemedicine that requires that the provider who is delivering the services be licensed in a particular state, so long as the provider is in compliance with P.L. 2020, c. 4 and this guidance; and
- may not impose additional prior authorization requirements on medically-necessary treatment that is delivered via telemedicine or telehealth, instead of via traditional methods, during this public health emergency.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

NM

### **WC Agency Notification**

Workers' Compensation Administration

### **Pharmacy**

No Guidance Issued

### **Medical**

Executive Order 2020-022 Emergency Order Extended until 4.30.20

Executive Order 2020-025 April 23,2020 Directs all STATE Executive Agencies employ a Presumption that certain agency employees as volunteers who contracted COVID-19 suffered a compensable occupational disease under the NW Occupational Disease Disablement Law. Included but not limited to EMT's and other first responders, volunteer and paid medical personnel, administrative and custodial staff at COVID-19 specific care centers and law enforcement officers.

### **Telemed**

WCA concurs with all aspects of the OSI Bulletin 2020-05 in they support and expectations of Telemedicine.

Options for social distancing in healthcare to minimize the spread of COVID 19 may include telephone and telemedicine care.

### **9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

NV

### **WC Agency Notification**

Dept of Business & Industry Workers Compensation Section

#### **Pharmacy**

No Guidance Issued

#### **Medical**

Emergency Directive 009 4.2.20

For workers' compensation claims, the time limits set forth by statute or regulation for appeals in the Department of Administration, Hearings Division will be extended from April 1, 2020 until 30 days from the date the state of emergency is terminated. Please note this Directive does not, pursuant to NRS 414.110 (1), extend, delay or toll the delivery of services or payment of benefits to injured workers who are otherwise be entitled under NRS Chapters 616A-616D and NRS Chapter 617.

#### **Telemed**

No Guidance Issued

### **9/18/2020**

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**WC Agency Notification**

Workers' Compensation Board

**Pharmacy**

The NY Workers' Compensation Drug Formulary Prior Authorization process will continue to be used for prescriptions that require prior authorization.

We also ask that your Medical Treatment Guidelines administrator verify your designated email contact and update it if necessary. 3.31.20

4.8.20 In response to widespread health care industry challenges due to COVID-19, the Chair of the New York State Workers' Compensation Board (Board) has modified the New York Workers' Compensation Drug Formulary (NY WC Formulary) regulation (12 NYCRR 441.3(a)(2)) to extend the deadline by which all health care providers must obtain prior authorization for renewals of non-formulary medications from June 5, 2020, to January 1, 2021.

**Medical**

Emergency Rule Medication - NYWCB 3.31.20 Post: Paragraph (16) of subdivision (a) of section 355.9 of Title 12 NYCRR is hereby amended to read as follows: (16) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment or continuing supervision by a health care provider. Serious health condition also means a COVID-19 diagnosis by a health care provider.

Insurance Carriers, Self-Insured Employers, TPAs and Providers – Designated Email Contact

The Workers' Compensation Board is updating some processes to ensure timely continuity of programs within the workers' compensation system. Health care providers have been instructed to submit prior authorization requests for medical procedures to their insurance carrier's designated email contact (if present) as posted on the Board's website, rather than a fax number. Fax submissions may not be able to be reviewed in a timely manner because many insurer staff members are working remotely.

Prior authorization requests for non-formulary medications should continue to be submitted through the medical portal. However, all insurance carriers, self-insured employers, and third-party administrators should forward their fax number to their designated email contact to ensure that these non-formulary prior authorization requests are received and acted upon accordingly. The Board will continue to issue Orders of the Chair for non-formulary prior authorization requests that are not responded to in a timely manner. These instructions pertain to the following forms:

- Attending Doctor's Request for Optional Prior Approval and Carrier's/Employer's Response (Form MG-1)
- Attending Doctor's Request for Approval of Variance and Carrier's Response (Form MG-2)
- Attending Doctor's Request for Authorization and Carrier's Response (Form C-4 AUTH)

**Telemed**

Section 325-1.8 of Title 12 NYCRR is hereby amended to read as follows:

325-1.8 Emergency medical aid and telemedicine.

(a) In the event of a serious accident requiring immediate emergency medical aid, an ambulance or any physician may be called to give first aid treatment.

(b) Telemedicine, using an interactive audio and video telecommunications system that

permits real-time communication between an authorized medical provider and a claimant in accordance with guidance from the Centers for Medicare & Medicaid Services, may be used by authorized providers where medically appropriate for social distancing purposes due to the outbreak of COVID-19 to assess current disability status. "Medically appropriate" includes discussion of test results or imaging, follow-up assessments, or counseling. It does not include treatment where physical examination is a necessary component, such as initial visits or assessments, physical therapy or other types of manual therapy. The authorized provider shall indicate on their report that such assessment was done using telemedicine as a result of social distancing due to the outbreak of COVID-19.

**9/18/2020**

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**WC Agency Notification**

Workers' Compensation Board

**Pharmacy**

4.8.20 Prior authorization requests for non-formulary medications should continue to be submitted through the medical portal.

**Medical**

4.2.20 Board Guidance Notification: The Chair has suspended the affidavit requirement in 12 NYCRR 300.38(g)(8) for Rocket Docket cases, as well as the requirement described for other Board-directed IMEs, and allows for either an affirmation (if by an attorney) or a letter request that contains all of the required elements set forth in section 5 of the Guidance Document, except the notarized and/or original signature. This will remain in effect during the existing emergency. The relief from the original signature requirement also encompasses the Indemnity Only Section 32 Waiver Agreement form. All requirements set forth in the Guidance Document must be met to verify the non-original signature and claimant's assent.

In response to staffing and other changes put in place related to the COVID-19 pandemic, the Workers' Compensation Board is updating some processes to ensure timely continuity of programs within the workers' compensation system.

4.8.20 Health care providers have been instructed to submit prior authorization requests for medical procedures to their insurance carrier's designated email contact as posted on the Board's website, rather than a fax number. Fax submissions may not be able to be reviewed in a timely manner because many insurer staff members are working remotely. Prior authorization requests for non-formulary medications should continue to be submitted through the medical portal.

All insurance carriers, self-insured employers, and third-party administrators should forward their fax number to their designated email contact to ensure that these non-formulary prior authorization requests are received and acted upon accordingly.

The Board will only issue Orders of the Chair (OOC) for emailed prior authorization requests listed below that are not responded to in a timely manner. An OOC will not be issued for a faxed prior authorization request.

These instructions pertain to the following forms:

Form Type Carrier's Email Address

Attending Doctor's Request for Optional Prior Approval and Carrier's/Employer's Response (Form MG-1) Contacts for Optional Prior Approval

Attending Doctor's Request for Approval of Variance and Carrier's Response (Form MG-2) Contacts for Variance Approval

Attending Doctor's Request for Authorization and Carrier's Response (Form C-4 AUTH) Contacts for Pre-Authorization

The NY Workers' Compensation Drug Formulary Prior Authorization process will continue to be used for prescriptions that require prior authorization.

We also ask that your Medical Treatment Guidelines administrator verify your designated email contact and update it if necessary.

**Telemed**

4.21.20

Section 325-1.8 of Title 12 NYCRR is hereby amended to read as follows:

325-1.8 Emergency medical aid and telemedicine.

(a) In the event of a serious accident requiring immediate emergency medical aid, an ambulance or any physician may be called to give first aid treatment.

(b) Telemedicine, using two-way audio and visual electronic communication, or treatment via telephone, may be used by authorized providers where medically appropriate for social distancing purposes due to the outbreak of COVID-19 during the state of emergency in accordance with the Department of Health COVID-19 Medicaid Guidance and Guidance issued by the Centers for Medicare and Medicaid Services. The authorized provider shall indicate on their report that such assessment was done using telemedicine by use of modifier 95 and indicating a place of service as 11, or telephonically by indicating place of service as 02. The provider shall also confirm the employee's identity as well as provide basic information about the services the employee is receiving by telephone or telemedicine.

**9/18/2020**

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**WC Agency Notification**

Governor Executive Order Notice by NY Workers Compensation Board

**Medical**

Executive Order 202.13 EFF 3.30.20

Pursuant to Executive Order 202.13, and effective March 30, 2020, all Workers' Compensation and Disability and Paid Family Leave benefits insurance carriers are directed to cease cancelling, non-renewing, or conditionally renewing any insurance policy issued to an individual or small business, or, in the case of a group insurance policy, insuring certificate holders that are individuals or small businesses, for a period of 60 days, for any policyholder, or in the case of a group insurance policy, group policyholder or certificate holder where such policy holder and or certificate holder is facing financial hardship as a result of the COVID-19 pandemic. For purposes of the Executive Order, a small business means any business that is resident in this State, is independently owned and operated, and employs one hundred or fewer individuals. Pursuant to Department of Financial Services (DFS) regulation, an employer may establish that it is facing financial hardship as a result of the COVID-19 pandemic by filing an attestation to that effect with its workers' compensation and/or disability and paid family leave benefits insurance carrier. See 11 NYCRR 229.5(c).

All Workers' Compensation, Disability Benefits and Paid Family Leave carriers are now on notice of the Executive Order.

Given the nature of the Executive Order, and the likelihood that there will be a significant number of voluntary cancellations by small businesses that have either been directed to temporarily close or temporarily have no employees due to the COVID-19 pandemic, the Board will not implement a system hard coding to prevent the submission of all coverage cancellation transactions filed by your organization for small businesses in New York (as defined above). Rather, the Board expects all carriers to comply with the Executive Order voluntarily and not file such transactions where the small business has filed the appropriate attestation of financial hardship with the carrier as indicated above.

However, as carriers have now been specifically placed on notice of this 60-day moratorium, in the event that a carrier files a prohibited coverage transaction, and the Board in turn undertakes activity vis a vis an affected small business, the Board will impose sanctions. Specifically, the Board will consider such activity to have been necessitated by carrier action without reasonable grounds, warranting an assessment of costs against the carrier pursuant to WCL § 114-a(3)(i). Finally, to the extent that there are any pending transactions that would be violative of the Executive Order, carriers are directed to immediately file reinstatement transactions (or other transactions as circumstances warrant) to negate the pending cancellations.

**Telemed**

4.21.20 continued

A new subdivision (c) of section 329-1.3 of Title 12 NYCRR is hereby added to read as follows:

When medically appropriate, authorized providers who utilize the Official New York State Workers' Compensation Fee Schedule may, when telemedicine is used in accordance with section 325-1.8 of this Title and any applicable Medical Treatment Guideline, bill using the applicable Evaluation and Management codes (99212-99214 ) using modifier 95 and indicating 11 as the place of service. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component.

A new subdivision (d) of section 329-4.2 of Title 12 NYCRR is hereby added to read as follows:

(d) When medically appropriate, authorized physical therapists, occupational therapists and acupuncturists shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

**9/18/2020**

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**WC Agency Notification**

NY Workers Compensation Board

**Medical**

4.9.20 NYWCB Update Notice

COVID-19 Guidance: Submitting Medical Bills and Attached Reports

Many insurance carriers, self-insured employers and third-party administrators are having their staff work from home during the Novel Coronavirus (COVID-19) health emergency. To accommodate this situation, the Board has changed its guidance on submitting medical bills and attached reports.

For payers submitting these documents to the Board, we ask that you please follow these guidelines:

If the medical bill is already in the case folder, the submitter should complete the form and note the Document ID for the medical bill. A copy should not be attached.

If the medical bill is not already in the case folder, and the submitter cannot attach it to the Notice of Treatment Issue(s)/Disputed Bill Issue(s) (Form C-8.1B), then the medical bill can be submitted separately, if the medical bill is submitted on the same day as the Form C-8.1B. A notation on the form of a same day medical bill submission is also acceptable proof.

A photo or image of the medical bill is an acceptable submission in lieu of a scanned copy; however, our scanning vendor has advised us that photos taken on a mobile device produce large files that are not amenable to scanning. The vendor recommends downloading the Genius Scan app onto a mobile device for scanning medical bills. Genius Scan is a free download and produces image files that are smaller in size, and can be downloaded for an Apple iOS or Android device.

Forms should be submitted by email to [wcbclaimsfilings@wcb.ny.gov](mailto:wcbclaimsfilings@wcb.ny.gov).

The medical bill should not also be submitted by paper mail (this would create a duplicate in the case folder).

More information

This guidance can also be found on the WCB website.

Questions? Contact [claims@wcb.ny.gov](mailto:claims@wcb.ny.gov).

**Telemed**

4.21.20 continued

A new subdivision (c) of section 333.2 of Title 12 NYCRR is hereby added to read as follows:

(c) When medically appropriate, authorized providers, including psychologists and licensed clinical social workers, shall use a Common Procedural Technology (CPT) therapy code (90832, 90834, or 90837) for services delivered by telemedicine in accordance with section 325-1.8 of this Title using modifier 95 and indicating 11 as the place of service for therapy by telemedicine using two-way audio and visual communication. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component.

A new subdivision (c) of section 348.2 of Title 12 NYCRR is hereby amended to read as follows:

(c) When medically appropriate, authorized chiropractors shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

This emergency rulemaking is effective for 90 days upon filing April 20, 2020.

**9/18/2020**

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**WC Agency Notification**

NY Workers Compensation Board

**Medical**

Text of emergency rule: Paragraph (16) of subdivision (a) of section 355.9 of Title 12 NYCRR is hereby amended to read as follows:

(16) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment or continuing supervision by a health care provider. Serious health condition also means a COVID-19 diagnosis by a health care provider.

(i) As used in this Title, continuing treatment or continuing supervision by a health care provider means one or more of the following:

(a) A period of more than three consecutive, full days during which a family member is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated due to illness, injury, impairment, or physical or mental conditions, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(1) Treatment two or more times by a health care provider; or

(2) Treatment on at least one occasion by a health care provider, which results in a regimen of continuing treatment under the supervision of the health care provider.

(b) Any period during which a family member is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated due to a chronic serious health condition. A chronic serious health condition is one which:

(1) Requires periodic visits for treatment by a health care provider;

(2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(3) May cause episodic rather than a continuing period of incapacity. Examples of such episodic incapacity include but are not limited to asthma, diabetes, and epilepsy.

(c) A long-term or permanent period during which a family member is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated due to an illness, injury, impairment, or physical or mental condition for which treatment may not be effective. The family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include, but are not limited to, Alzheimer's, a severe stroke, or the terminal stages of a disease.

(d) A period during which a family member is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated because he or she is receiving treatment (including any period of recovery therefrom) by a health care provider for:

(1) Restorative surgery after an accident or other injury; or

(2) A condition that would likely result in a period of incapacity of more than three consecutive full days in the absence of medical intervention or treatment. Examples include, but are not limited to, cancer (e.g., chemotherapy and radiation), severe arthritis (physical therapy), or kidney disease (dialysis).

(ii) As used in this Title, the term treatment includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine examinations. Examples of a regimen of continuing treatment includes, but is not limited to, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications (e.g., aspirin, antihistamines, or salves), bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of leave under this Title.

(iii) Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do not meet the definition of a serious health condition and do not qualify for leave under this Title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions, provided all the other conditions of this paragraph are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of this paragraph are met.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires June 24, 2020.

**9/18/2020**

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**WC Agency Notification****Medical**

Addition to the New York workers' comp. medical fee schedule of billing and fee schedule language for COVID-19 testing, through emergency rule effective for 90 days from May 18, 2020....

A new subdivision (d) of section 329-1.3 of Title 12 NYCRR is hereby added as follows:

(d) When workers' compensation benefits are sought due to a work-place exposure to COVID19, reimbursement for serological, molecular or other reliable testing to confirm a current COVID-19 viral infection may be made using CPT code 87635.

(1) The RVU for CPT code 87635 shall be \$39.18, and the total fee for such test shall be \$51.33 for Region IV, \$47.41 for Region III, and \$41.53 for Regions I and II.

(2) CPT code 87635 may only be billed when there is a claim for workers' compensation due to a COVID-19 infection as a result of a work-place exposure.

(3) CPT code 87635 may not be billed for routine screening of workers' compensation claimants for the presence of the COVID-19 virus.

(4) Antibody testing is not available under the Official New York Workers' Compensation Fee Schedule.

(5) CPT code 87635 may only be billed in one instance. Repeat testing is not permitted.

Emergency adoption and proposed amendment to 12 NYCRR 355.9

Date: July 9, 2020

The Chair has adopted on an emergency basis and proposed the amendment to 12 NYCRR 355.9 to clarify that eligible employees may take Paid Family Leave to care for a family member diagnosed with COVID-19. A Notice of Emergency Adoption was published in the April 15, 2020, edition of the State Register, and a Notice of Emergency Adoption and Proposed Rulemaking will be published in the July 15, 2020, edition of the State Register. This emergency rulemaking will be effective until July 27, 2020.

Date: July 21, 2020

The Chair has adopted on an emergency basis, amendments to 12 NYCRR 325-1.8, 329-1.3, 329-4.2, 333.2, and 348.2 to allow telemedicine in some circumstances for social distancing purposes due to the outbreak of COVID-19 and to supersede the previous emergency telemedicine adoption, filed on April 20, 2020. A Notice of Emergency Adoption will be published in the August 4, 2020, edition of the State Register. The text of the Emergency Adoption has been published to the Board's website. This emergency rulemaking is effective for 90 days upon filing July 20, 2020.

The New York Workers' Compensation Board has tweaked its rules for telemedicine to provide new billing codes for psychotherapy services during the coronavirus pandemic. "Providers with the rating codes listed in Modifier 1B of the Introduction and General Guidelines of the Official New York State Workers' Compensation Medical Fee Schedule may bill the following psychotherapy codes in conjunction with Evaluation and Management codes: (i) New patient Evaluation and Management: 99201-99204; (ii) Psychotherapy combination codes and crisis codes: 90832-90834, 90836-90840, 90853," the new rule reads. Group therapy for certain therapy is limited to a maximum of 20 participants, and all participants do not need to be workers' compensation claimants, the rules note. The rules were adopted on an emergency basis and will remain in effect until late October. The rule adds the psychological services to emergency rules adopted in April.

**9/18/2020**

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**WC Agency Notification**

Work Comp Board

**Medical**

8.5.20 Version: Allowing Telemedicine in Some Circumstances, Supersede Previous Emergency Adoption

I.D. No. WCB-31-20-00002-E

Filing No. 439

Filing Date: 2020-07-21

Effective Date: 2020-07-21

Text of emergency rule: Section 325-1.8 of Title 12 NYCRR is hereby amended to read as follows:

325-1.8 Emergency medical aid and telemedicine.

(a) In the event of a serious accident requiring immediate emergency medical aid, an ambulance or any physician may be called to give first aid treatment.

(b) Telemedicine, using two-way audio and visual electronic communication, or treatment via telephone, may be used by authorized providers where medically appropriate for social distancing purposes due to the outbreak of COVID-19 during the state of emergency in accordance with the Department of Health COVID-19 Medicaid Guidance and Guidance issued by the Centers for Medicare and Medicaid Services. The authorized provider shall indicate on their report that such assessment was done using telemedicine by use of modifier 95 and indicating a place of service as 11, or telephonically by indicating place of service as 02. The provider shall also confirm the employee's identity as well as provide basic information about the services the employee is receiving by telephone or telemedicine.

New subdivisions (c) and (d) of section 329-1.3 of Title 12 NYCRR is hereby added to read as follows:

When medically appropriate, authorized providers who utilize the Official New York State Workers' Compensation Fee Schedule may, when telemedicine is used in accordance with section 325-1.8 of this Title and any applicable Medical Treatment Guideline, bill using the applicable Evaluation and Management codes (99212-99214) using modifier 95 and indicating 11 as the place of service. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component.

(d) Providers with the rating codes listed in Modifier 1B of the Introduction and General Guidelines of the Official New York State Workers' Compensation Medical Fee Schedule may bill the following psychotherapy codes in conjunction with Evaluation and Management codes:

(i) New patient Evaluation and Management: 99201-99204;

(ii) Psychotherapy combination codes and crisis codes: 9083290834, 90836-90840, 90853;

A new subdivision (d) of section 329-4.2 of Title 12 NYCRR is hereby added to read as follows:

(d) When medically appropriate, authorized physical therapists, occupational therapists and acupuncturists shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

New subdivisions (c) and (d) of section 333.2 of Title 12 NYCRR is hereby added to read as follows:

(c) When medically appropriate, authorized providers, including psychologists and licensed clinical social workers, shall use a Common Procedural Technology (CPT) therapy code (90832, 90834, or 90837) for services delivered by telemedicine in accordance with section 325-1.8 of this Title using modifier 95 and indicating 11 as the place of service for therapy by telemedicine using two-way audio and visual communication. Modifiers 1B and 1D are available when services are rendered by telemedicine using two-way audio and visual communication. When services are rendered by telephone only in accordance with section 325-1.8 of this Title, the authorized provider shall indicate 02 as the place of service. Modifiers 1B and 1D are not available when services are rendered by telephone with no visual component. Group therapy: 90853. Group therapy is limited to a maximum of 20 participants and does not require that every participant in the group therapy session be a workers' compensation claimant.

A new subdivision (c) of section 348.2 of Title 12 NYCRR is hereby amended to read as follows:

(c) When medically appropriate, authorized chiropractors shall use Common Procedural Technology (CPT) code 99212 using modifier 95 and indicating 11 as the place of service when treatment is rendered by telemedicine using two-way audio and visual communication, and indicating 02 as the place of service when treatment is rendered by telephone only. Treatment in accordance with section 325-1.8 of this Title and using these codes shall be limited to one unit per patient per day, up to two treatments per week during the thirty days following injury, and up to one treatment per week thereafter.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires October 18, 2020.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

# NY-More

### WC Agency Notification

#### Medical

8.20.20

The New York Workers' Compensation Board has adopted, on an emergency basis, reimbursement codes and values for COVID-19 testing.

Testing should be billed under Current Procedural Terminology code 87635, the board chairwoman said in a bulletin posted Tuesday. The code should be used only when a COVID-related workers' comp claim has been led or when testing is part of a pre-operative protocol in keeping with health department guidelines.

The code should not be used for routine screening of workers' comp claimants to check for the virus. The memo did not explain how routine testing of claimants is different from testing after a claim has been led.

The relative value unit is 39.18. The total fee for the testing is \$51.33 for Region IV, \$47.41 for Region III and \$41.53 for Regions I and II.

Repeat testing is not permitted to be reimbursed except in cases of new exposure, and antibody testing is not reimbursed under the state workers' compensation fee schedule, the bulletin said.

#### 9/18/2020

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**WC Agency Notification**

Bureau of Workers' Compensation

**Pharmacy**

No Guidance Issued

**Medical**

BWC will waive the prior authorization requirement for telephone services when:

- The provider substitutes a telephone call in lieu of delivering a face-to-face visit for a previously approved psychological counseling service; or
- A provider eligible to render an E&M service substitutes a telephone call in lieu of the face-to-face E&M visit when the provider determines that the visit would create an unnecessary or increased risk of exposure to either the injured worker or to the provider.

**Telemed**

Telehealth is permitted as a temporary treatment for WC claims.

Telemedicine

Under the current telemedicine policy, the home is excluded as an origination site. However, during this period of crisis, BWC will temporarily permit the injured worker's home as an acceptable origination site. Providers may synchronously render and bill any of the 40-designated telemedicine services, including but not limited to evaluation and management (E&M) services 99212-99215, 99241-99245, 99307-99310 and psychotherapy services 90832-90838. For a complete list of telemedicine designated CPT codes identified with the -95 modifier, please refer to the 2020 Professional Provider Fee Schedule.

Telephone Services

BWC's current policy permits telephone services utilizing CPT codes 99371-99373. The code descriptions and related policy can be found through the following [Billing and Reimbursement Manual](#) link. BWC will temporarily permit MCOs to authorize the use of telephone visits in lieu of face-to-face visits for injured workers in a state of crisis or who are at risk to travel to a face-to-face visit during the state of emergency.

**9/18/2020**

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**WC Agency Notification**

Bureau of Workers' Compensation

**Medical**

Website FAQ's

Q6. Do providers need prior authorization to deliver services via telemedicine or telephone?

A. If a service required prior authorization prior to the COVID-19 state of emergency, prior authorization is still needed when utilizing telehealth as the medium of service delivery. If services had already be approved by the MCO, selected providers didn't need to obtain additional prior authorization switch to render these services via telemedicine.

Q7. How will a provider be paid when delivering telemedicine services?

A. Providers are reimbursed for synchronous (audio/video) telemedicine at the same rate as face-to-face, using the facility column of the Professional Provider Fee Schedule. To be reimbursed at this rate, the provider must document the audio/video connection and use the place of service 02 and modifier -95.

**Telemed**

Website FAQ's

Q1. Does BWC allow telehealth to deliver care?

A. Yes, BWC utilizes multiple mediums, including a telemedicine, telephone, and virtual service approach to rendering telehealth services. The application and requirements of these mediums are slightly different and are set forth in BWC rules and Billing and Reimbursement Manual policies.

Q2. Has BWC made any changes to existing telehealth services?

A. Yes, BWC has adopted selected service changes which have been set forth in the following three emergency policy alerts to address the expanded use of telemedicine and telephone services.

1. Policy alert 2020-01 announces a more flexible use of telemedicine and expands the site of care delivery to the home, as well as relaxes requirements for use of a secure platform of communication. It also reduces some administrative burden to notify or request additional authorization from the MCO to change the care delivery mechanism.

2. Policy alert 2020-02 permits telephonic communication as a temporary substitute for some vocational rehabilitation services.

3. Policy alert 2020-03 expands the service providers eligible to provide and bill for virtual check in and/or telephone services (audio only).

**9/18/2020**

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**WC Agency Notification**

Workers' Compensation Division

**Pharmacy**

No Guidance Issued

**Medical**

Medical services by telehealth – temporary fee increase.

Implementing social distancing is affecting access to in-person health care services. WCD encourages providers and workers, whenever possible and medically appropriate, to replace in-person visits with telehealth.

The division has published a temporary fee schedule for certain services provided on or after March 8, 2020. The temporary fee schedule increases the payment rates for telephonic and online digital evaluation/assessment and management services to mirror payment rates for an equivalent office visit. This will allow providers to increase their capacity to serve patients by telephone and online digital means.

The Oregon workers' compensation rules do not restrict services that may be provided through telehealth or provider types that may use these services. However, all services, regardless of the form of communication, must be appropriate. The form of communication must also be appropriate for the service provided. More information about telehealth and telemedicine are included in the appendix to this notice.

Temporary disability authorization. Reduced access to medical providers has also caused some workers difficulty in obtaining new or ongoing temporary disability (time loss) authorization from their attending physician or authorized nurse practitioner. As noted above, we encourage the use of telehealth and telemedicine to facilitate conversations between workers and their attending physician or authorized nurse practitioner. The term "insurer" is defined in ORS731.106 as "every person engaged in the business of entering into policies of insurance". For purposes of the order, the term includes all insurance companies, healthcare service contractors, Multiple Employer Welfare Arrangements, and all similar entities engaged in the business of insurance in Oregon.

**Telemed**

The Workers' Compensation Division has adopted temporary changes to OAR 436-009, to be effective March 25, 2020.

Amended rule 0040 increases maximum allowable payments for certain telephonic and digital evaluation/management services delivered on or after March 8, 2020, the date of the Governor's

Executive Order 20-03.

7.13.20 Extended temporary rules and they continue to provide for increased maximum allowable payments for certain telephone and digital evaluation/management services. In addition, the rules now list new CPT® codes for COVID-19 testing and their effective dates for services retroactive to dates established by the American Medical Association and establish the maximum payment amounts at 80% of amounts billed for the new CPT® codes.

**9/18/2020**

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**WC Agency Notification**

Pennsylvania Department of State's (DOS) Bureau of Professional and Occupational Affairs (BPOA)

**Pharmacy**

No Guidance Issued

**Medical**

3/18/2020, The Pennsylvania Department of State's (DOS) Bureau of Professional and Occupational Affairs (BPOA) released guidance clarifying that health care professionals licensed under any of BPOA's licensing boards can provide services to patients via telemedicine during the COVID-19 emergency.

Telemedicine visits can be used for new injuries or ongoing treatment of injuries sustained in the workplace.

3.18.20 Guidance referenced above

03/18/2020

Licensed Health Care Practitioners Can Provide Telemedicine Services to Pennsylvanians During Coronavirus Emergency

Harrisburg, PA — Health care professionals licensed under any of the Department of State's Bureau of Professional and Occupational Affairs (BPOA) licensing boards can provide services to patients via telemedicine during the coronavirus emergency.

"Telemedicine provides health care professionals flexibility to continue treating their patients while following best practices on social distancing as outlined by the Department of Health," Secretary Boockvar said. "The department requested, and Governor Wolf granted us, the authority to allow health care professionals from out-of-state to treat Pennsylvania residents using telemedicine, when appropriate, due to COVID-19."

4.6.20 Bureau of Workers' Compensation Healthcare Services Review Division

This distribution is needed to include five (5) new CPT/HCPCS codes (87635/U0001/U0002/G2023/ G2024) in the Part B Fee Schedule for payment relating to the COVID-19 testing. These new codes are effective for dates of service on or after January 1, 2020. There are no rates established for these codes so that the reimbursement should be according to §127.102 of the Pennsylvania Workers' Compensation Act.

**Telemed**

Workers Compensation FAQ

Can I receive telemedicine for a workplace injury or illness under workers' compensation?

In recognition of the Pennsylvania Department of Health, and CDC information concerning social distancing, the Pennsylvania Department of Labor and Industry Office of Workers' Compensation would like to remind employers, employees, and healthcare providers that telemedicine and virtual care may be sought by workers sustaining injuries and illness for treatment related to a compensable work injury.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

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### **WC Agency Notification**

Rhode Island Workers Compensation

### **Pharmacy**

No Guidance Issued

### **Medical**

No Guidance Issued

### **Telemed**

Information Letter 2020-03

April 17, 2020

Under Rhode Island Executive Order 20-06 Expanding Access to Telemedicine Services and Rhode Island Insurance Bulletin 2020-5 Emergency Telemedicine Measures – Covid-19 the following telemedicine codes will be assigned temporary fee schedule reimbursement rates increasing rates for telephonic (CPT codes 99441-99443) and online digital (CPT codes 99421- 99423 and 98970-98972) evaluation/assessment, management services and Physical/Occupational Therapy to mirror payment rates for an equivalent office visit. When billing for these codes use modifier 95 or CR (catastrophe response) and place of service code 02 (telehealth). Providers should reflect the length of the interaction in their supporting documentation.

### **9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

SC

### **WC Agency Notification**

SC Workers Compensation Commission

### **Pharmacy**

No Guidance Issued

### **Medical**

No Guidance Issued

### **Telemed**

4.3.20 Advisory Notice

Telemedicine

To reduce the potential exposure to the coronavirus, the Commission encourages the use of telemedicine when possible for the provision of medical care to the injured worker.

**9/18/2020**

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**WC Agency Notification**

Bureau of Workers' Compensation

**Pharmacy**

No Guidance Issued

**Medical**

4.1.20 Although recommended to have the appropriate Tennessee license(s), certain requirements have been waived by the national agencies for certain qualified providers. If care is being rendered by a practitioner without a Tennessee license to a Tennessee claimant, please refer to the applicable state licensing boards. Scope of practice requirements remain in effect for any provider rendering care to a claimant under the Tennessee Workers' Compensation Law. Records should be kept as if the visit were in-person, reviewing pertinent information and documenting all interactions and recommendations/orders. It is anticipated that demographic data on new patients will require extended time. See CMS coding guidance for different types of visits. Appropriate consent for the type of communications must be documented. The providers may bill using the standard appropriate billing forms in accordance with CMS guidance. Once the bill and supporting documents have been received, coverage verified and care accepted as payable, the bill should be paid at the Medicare rate in effect for that date of service by applying the current Tennessee Workers' Compensation Medical Fee Schedule conversion percentages found in Chapters 0800-02-17, 0800-02-18 and 0800-02-19. Other payment rules remain in effect. It is anticipated that payment for properly billed services will be made without undue delay. Payment for services rendered under these emergency circumstances should include "telephone-only" services. All codes recognized and payable by CMS in accordance with the current CPT® descriptors should be paid.

On April 30, 2020, the U.S. Centers for Medicare & Medicaid Services (CMS) announced that it is waiving certain requirements of federal law which specify the types of practitioners that may bill for their services when furnished as Medicare telehealth services. The waiver of these requirements expands the types of health care professionals that can furnish telehealth services to include all those that are eligible to bill Medicare for their professional services. As a result, a broader range of practitioners, such as physical therapists, occupational therapists, and speech language pathologists can use telehealth to provide many Medicare services. By rule, unless otherwise indicated in the Tennessee workers' compensation medical fee schedule regulations, the most recent, effective Medicare procedures and guidelines have been adopted by the Tennessee Bureau of Workers' Compensation and are effective upon implementation by CMS.

Additionally, CMS is modifying the process to add services to the Medicare telehealth services list and will consider adding appropriate services as they are requested. A complete list of all Medicare telehealth services can be found at <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>.

• **Medical**

- o Case Management: Face-to-Face meeting requirements: when the face-to-face meeting cannot be accomplished, note the reason on the form C34 (CM closure). Penalty assessments for this are suspended.
- o Telehealth: HHS, CMS and DEA have relaxed their rules. The Bureau supports its use at this time. Payments will follow Medicare guidelines with amounts according to the Medical Fee Schedule. The TMA has issued guidance on coding. See their websites for more info.
- o Utilization Review Appeals: Appeals for denied treatments continue to be processed as usual.
- o Fee Schedule waivers continue to be processed as usual.
- o Medical Fee Schedule and payments: Any later disputes can be submitted to the Medical Payment Committee.

**Telemed**

BWC - Permits temporary usage of telemedicine for WC claims.

If a Tennessee-licensed physician chosen from the Form C-42 Employee Choice of Physician utilizes telehealth as a part of his/her practice, the workers' compensation law and rules do not prohibit this. A panel-chosen physician may utilize telehealth in the treatment of an injured worker.

Currently, there is no specific provision in the workers' compensation statutes or rules that addresses the subject of a telehealth provider to be listed as an option on the Form C-42 Employee Choice of Physician.

Payments should be made in accordance with all CMS guidelines including those announced by CMS on March 17, 2020.

## 4.1.20

During this period, in accordance with the national emergency, telehealth visits may be used by all providers to provide appropriate care continuation and to improve functional considerations for established patients. For initial visits or new patients, appropriate care can be rendered via telehealth as well. The Bureau follows CMS, DEA, CDC and OCR recommendations. As a result of the current emergency relaxation of certain HIPAA regulations, visits may be by telephone only or by unsecure or secure video/audio links with the express agreement/permission of the patient and the provider. A satisfactory telephone or telehealth link can be established, and the patient must acknowledge this to the provider. Certain telecommunications applications not previously allowed may be used during this period, such as Skype, Facetime, etc. It is anticipated that the provider will still make all good faith efforts to protect patient privacy. All persons who are present or can hear during a telehealth visits should be disclosed and acceptable to both the patient and the provider.

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

TN

### 5.1.20 Exec Order 32

Paragraph 38.2 of the Order provides as follows:

Facilitating physical, occupational, and speech therapy via telemedicine for workers' compensation recipient. The provisions of Tenn. Comp. R. and Regs. 0800-02-17-.05 and 0800-02-18-.09 are hereby suspended to the extent necessary to allow services provided by a physical therapist, occupational therapist, or speech –language pathologist and delivered via telemedicine to a workers' compensation claimant to be reimbursed as if the services were delivered in a physical setting. This Paragraph 38.2 does not otherwise alter or amend any requirement for prior authorization by the payer.

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**WC Agency Notification**

Division of Workers' Compensation

**Pharmacy**

Commissioner's Bulletin B-0010-20

Workers' compensation insurance carriers must continue or begin:

- processing and delivering indemnity benefits and medical payments in a timely manner; and
- authorizing payments to pharmacies up to a 90-day supply for any prescription medication, subject to the remaining number of days authorized by the prescribing provider, regardless of the date the prescription was most recently filled.

This bulletin shall be in effect for the duration of the governor's COVID-19 declaration, or until further notice from DWC.

**Medical**

Commissioner's Bulletin B-0010-20

Workers' compensation insurance carrier operations must continue or begin:

- processing and delivering indemnity benefits and medical payments in a timely manner; and
- authorizing payments to pharmacies up to a 90-day supply for any prescription medication, subject to the remaining number of days authorized by the prescribing provider, regardless of the date the prescription was most recently filled.

Suspension of exams - DWC is taking the following action regarding designated doctor, required medical, and referral examinations:

- Ceasing orders for DD exams and holding requests.
- Suspending RME, DD, and referral exams that have already been ordered. Any RME, DD, or referral exams ordered and scheduled on or before the date of this bulletin are now suspended and should not occur until further notice from DWC.

Tolling of medical billing deadlines

Failure to submit a timely medical bill will be deemed an exception due to a catastrophic event under Labor Code Section 408.0272(b)(2)

COMMISSIONERS Bulletin B-0012-20

- testing, training, and application requirements for designated doctor and maximum medical improvement and impairment rating recertification under 28 TAC Sections 127.110(b)(1) and (3), 127.110(d), and 180.23; and
- required medical exams under 28 TAC Section 126.6(a).

In order to ensure that public safety employees of governmental entities are able to be reimbursed by their employer for reasonable medical expenses related to COVID-19, Governor Abbott has suspended Texas Government Code Sections 607.002(1) and (2) to the extent necessary to allow public safety employees, who were likely to have been exposed to COVID-19 while in the course of their employment, to be entitled to the reimbursements set forth in Section 607.002 of the Government Code.

This suspension is in effect until terminated by the Office of the Governor or until the March 13, 2020, disaster declaration is lifted or expires.

SUSPENDED:

Sec. 607.002. REIMBURSEMENT. A public safety employee who is exposed to a contagious disease is entitled to reimbursement from the employing governmental entity for reasonable medical expenses incurred in treatment for the prevention of the disease if:

- (1) the disease is not an "ordinary disease of life" as that term is used in the context of a workers' compensation claim;
- (2) the exposure to the disease occurs during the course of the employment; and
- (3) the employee requires preventative medical treatment because of exposure to the disease.

Commissioners Bulletin B-0019-20

Governor Abbott suspended Health and Safety Code Section 81.050(j) and 28 Texas Administrative Code Section 122.3(c) regarding 10-day testing requirements. As symptoms of COVID-19 exposure may take over 10 days to manifest, strict compliance with these laws could prevent, hinder, or delay state efforts to provide workers' compensation coverage for emergency responders. This bulletin is in effect for the duration of the governor's COVID-19 declaration, or until further notice from DWC.

FAQ: Q: Who is an emergency responder under 28 TAC Section 122.3(c)?

A: Emergency responders include law enforcement officers, firefighters, emergency medical service employees, paramedics, and correctional officers, including volunteers.

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**Telemed**

TDWC - Injured employees may receive telemedicine and telehealth services regardless of geographic location.

•An interactive audio and video telecommunications system that permits real-time communication between the provider at the distant site and the injured employee must be used. •The health care provider must use Place of Service (POS) code 02 in 24B of the CMS-1500 02/12 to indicate that the service was delivered via telehealth/telemedicine

Ability to provide telemedicine or telehealth services in the Texas workers' compensation system is dependent on several factors.

Telemedicine services must be consistent with the following:

- health care provider's scope of practice and licensing requirements;
- rules of the health care provider's licensing board;
- standard of care requirements; and
- DWC rules related to telemedicine and telehealth.

Telemedicine, telehealth, telerehab, virtual visits, e-visits and potentially other terms are being used informally as if these words all described the same thing.

•In Texas, telemedicine and telehealth have very specific meanings and definitions found in the Texas Occupations Code which generally differentiates telemedicine (physicians) and telehealth (non-physicians) by provider type.

•CMS uses the term telehealth. Medicare telehealth services include office visits, psychotherapy, consultations, and certain other medical or health services that are provided by an eligible provider using an interactive 2-way telecommunications system (like real-time audio and video).

•Medicare publishes a list of covered telehealth services annually. This list is adopted by reference in the DWC telemedicine rule.

•Virtual check-ins and e-visits are identified by CPT and HCPCS codes with specific service and reporting requirements. Although these codes and are not grouped with the CMS list of telehealth covered services, they are approved codes reimbursable in the CMS physician fee schedule and in 28 TAC §134.203, Medical Fee Guideline for Professional Services.

Physical Medicine & Rehab (PMR) CPT codes are not included in the CMS list of telehealth service nor has DWC modified existing rules to allow for the provision of PMR services through telemedicine or telehealth

Telemedicine/telehealth services and treatments are reimbursed in accordance with Rule 28 TAC Sec. 134.203 – Medical Fee Guideline for Professional Services. For certified network claims and claims receiving telemedicine and telehealth services under Labor Code §504.053(b)(2), reimbursement rates are determined by network contracts

**9/18/2020**

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**WC Agency Notification**

Dept of Insurance  
Div of Workers Compensation

**Medical**

From: Cassie Brown, Commissioner of Workers' Compensation  
Date: April 29, 2020

RE: Maximum medical improvement (MMI) and impairment rating (IR) evaluations are not permitted through telemedicine

The Division of Workers' Compensation (DWC) reminds system participants that doctors are not allowed to bill and be reimbursed for MMI and IR evaluations conducted through telemedicine or telehealth. The billing codes for MMI and IR evaluations (99455 and 99456) are not included in the Centers for Medicare and Medicaid Services (CMS) list of telemedicine or telehealth services. DWC adopted by reference the CMS list of telemedicine and telehealth services in 28 Texas Administrative Code (TAC) Sections 133.30 and 134.203. Doctors who contract with certified health care networks under Insurance Code Chapter 1305 or perform services on a network claim through an out-of-network referral must also comply with DWC rules on billing and reimbursement.

"To help injured employees receive medical care they need to treat their work-related injuries without an unnecessary administrative delay, the Division of Workers' Compensation encourages Texas workers' compensation insurance carriers and utilization review agents to extend preauthorizations issued before March 22, 2020, without a request from a health care provider, and provide injured employees and health care providers with written notice of updated authorizations. These extensions do not apply to one-time preauthorizations for medical care that has already been completed, new preauthorization requests, or pharmacy preauthorizations.

Workers' compensation certified networks and political subdivision health plans under Labor Code Section 504.053(b)(2) are encouraged to extend injured employee referrals for specialists, therapy, and other medically necessary services to prevent disruptions in the continuity of their medical care."

Governor Abbott Extends Statewide COVID-19 Disaster Declaration 7.10.20

DWC is extending 28 Texas Administrative Code Section 167.1, relating to telemedicine and telehealth. The rule will be effective for 60 more days, through October 8, 2020.

**Telemed****4.13.20 Emergency Rule Adopted**

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is adopting new 28 Texas Administrative Code §167.1 on an emergency basis. The rule relates to telemedicine and telehealth and will go into effect immediately for physical medicine and rehabilitation services provided on or after April 13, 2020.

The emergency adoption is necessary to ensure enhanced access to telemedicine and telehealth services in response to the COVID-19 disaster declaration.

This emergency rule builds on the existing telemedicine and telehealth rules by creating an exception to current CMS distant site practitioner requirements. This rule allows health care providers licensed to perform physical medicine and rehabilitation services, including physical therapists, occupational therapists, and speech pathologists to bill and be reimbursed for services currently allowed under CMS telemedicine and telehealth billing codes.

Health care providers must bill for telemedicine or telehealth services using the same billing, coding, reporting, and documentation requirements used for in-person services and include a place of service code "02 – telehealth" on the bill. Services will be reimbursed at DWC's fee schedule rate or network contracted rate, whether provided in person or through telemedicine or telehealth. An originating site facility fee is not eligible for reimbursement.

The adopted rule will be published in the April 24, 2020, issue of the Texas Register

**9/18/2020**

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**WC Agency Notification****Pharmacy**

No Guidance Issued

**Medical**

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-1101 is enacted to read:

Part 11. Presumptions for First Responders

34A-2-1101. Definitions.

(1) As used in this part:

(a) "COVID-19" means the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "First responder" means:

(i) an emergency responder as defined in 29 C.F.R. Part 826, Subpart C; or

(ii) a health care provider as defined in 29 C.F.R. Part 826, Subpart C.

(c) "Physician" means an individual licensed under:

(i) Title 58, Chapter 67, Utah Medical Practice Act;

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(2) For purposes of this part, an individual is diagnosed with COVID-19 if the individual:

(a) through laboratory testing of a specimen the individual provides, tests positive for the virus that causes COVID-19; and

(b) is diagnosed with COVID-19 by a physician.

Section 2. Section 34A-2-1102 is enacted to read:

34A-2-1102. Workers' compensation presumption for first responders.

(1) A first responder who claims to have contracted COVID-19 during the performance of the first responder's duties as a first responder, is presumed to have contracted COVID-19 by accident during the course of performing the first responder's duties as a first responder if the first responder is diagnosed with COVID-19:

(a) while employed or serving as a first responder; or

(b) if the first responder's employment or service as a first responder terminates, within two weeks after the day on which the first responder's employment or service terminates.

(2) A first responder who makes a claim under this part shall provide a copy of the positive laboratory test or the written documentation of a physician's diagnosis to the first responder's employer or insurer.

Section 3. Section 34A-2-1103 is enacted to read:

34A-2-1103. Workers' compensation claims.

(1) This part applies to a claim resulting from an accident arising out of and in the course of a first responder's employment or service on or after March 21, 2020, and before June 1, 2021.

(2) For purposes of establishing a workers' compensation claim under this part, the "date of accident" is presumed to be the earlier of the day on which:

(a) the first responder is diagnosed with COVID-19;

(b) the first responder is unable to work because of a symptom of a disease that is later diagnosed as COVID-19; or

(c) the first responder's employment or service as a first responder terminates, if the first responder is diagnosed with COVID-19 within two weeks after the day on which the first responder's employment or service as a first responder terminates.

(3) Death benefits payable under this chapter are payable only if a claimant establishes by competent evidence that death was a consequence of or a result of COVID-19.

Section 4. Section 34A-2-1104 is enacted to read:

34A-2-1104. Failure to be tested -- Rebuttable presumption.

(1) A first responder who refuses examination for COVID-19 or fails to be diagnosed with COVID-19 is not entitled to the presumption established under this part.

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

(2) The presumption established in this part may be rebutted by a preponderance of the evidence.

Section 5. Section 34A-2-1105 is enacted to read:

34A-2-1105. Determining employers of first responders -- Volunteer first responders -- Workers' compensation premiums.

(1) For purposes of receiving workers' compensation benefits, a first responder performing the services of a first responder is considered an employee of an entity for whom the first responder provides those services.

(2) (a) A first responder who only performs the services of a first responder for minimal or no compensation or on a volunteer basis receives an amount of workers' compensation:

(i) based on the first responder's primary employment, if the first responder is primarily employed other than as a first responder; or

(ii) that is the minimum benefit, if the first responder has no employment other than as a first responder.

(b) An entity for whom a first responder provides first responder services for minimal or no compensation or on a volunteer basis shall:

(i) pay any excess premium necessary for workers' compensation, if the first responder is primarily employed other than as a first responder; and

(ii) pay any premium necessary for workers' compensation, if the first responder has no employment other than as a first responder.

(3) A first responder is not precluded from utilizing insurance a primary employer provides, or any other insurance benefits, in addition to workers' compensation benefits.

Section 6. Section 34A-2-1106 is enacted to read:

34A-2-1106. Construction -- Rulemaking authority.

(1) This part supersedes any conflicting provisions of Utah law.

(2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this part.

Section 7. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

### Telemed

Emergency Rule:

R612. Labor Commission, Industrial Accidents.

R612-300. Workers' Compensation Rules - Medical Care.

5. "Telehealth" is two-way, real-time interactive communication between the member and the physician or authorized provider at the distant site. This electronic communication uses interactive telecommunications equipment that includes, at a minimum, audio and video equipment.

2. Unless otherwise governed by contract, payors shall reimburse medical providers for telehealth services at the same rate as the comparable in-person service for the following CPT codes using a 95 modifier:

a. Physicians: 99211-99214;

b. Physical therapists: 97110, 97164 97530, 97535;

c. Occupational therapists: 97168.

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**WC Agency Notification**

Governor

**Medical**

4.23.20 Signed HB 3007 General Description:

This bill amends the Workers' Compensation Act to provide workers' compensation under certain circumstances to first responders who contract COVID-19.

Highlighted Provisions:

This bill:

defines terms; establishes, under certain circumstances, a rebuttable presumption that a first responder who contracts COVID-19 contracted COVID-19 by accident during the course of performing the first responder's duties as a first responder; establishes a presumed date of accident for a first responder making a workers'

compensation claim related to COVID-19; establishes an amount of benefits for a first responder who provides first responder services for minimal or no compensation or on a volunteer basis; and grants the Labor Commission rulemaking authority.

The presumption in the bill, introduced by Rep. Francis Gibson, R-Mapleton, applies to workers listed as a health care providers or emergency responders in the federal Families First Coronavirus Act. Covered workers include law enforcement officers, firefighters, emergency medical service personnel, corrections workers, physicians and nurses, 911 operators, public health officials and child welfare workers.

Modified definition of First Responder

Part 2. Presumptions for First Responders

34A-2-1101. 34A-3-201. Definitions.

(1) As used in this part:

(a) "COVID-19" means the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "First responder" means:

(i) an emergency responder as defined in 29 C.F.R. Part 826, Subpart C; or

(ii) a health care provider as defined in 29 C.F.R. Part 826, Subpart C.

(i) a first responder as defined in Section 34A-2-102;

(ii) an individual employed by:

(A) a health care facility as defined in Section 26-21-2;

(B) an office of a physician, chiropractor, or dentist;

(C) a nursing home;

(D) a retirement facility;

(E) a home health care provider;

(F) a pharmacy;

(G) a facility that performs laboratory or medical testing on human specimens; or

(H) an entity similar to the entities listed in Subsections (1)(b)(ii)(A) through (G);

(iii) an individual employed by, working with, or working at the direction of a local health department; or

(iv) a volunteer, as defined in Section 67-20-2, providing services to a local health department in accordance with Title 67,

**9/18/2020**

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**WC Agency Notification**

J. Stephen Monahan, Director Workers Compensation & Safety Division

**Pharmacy**

No Guidance Issued

**Medical**

7.15.20

Sec. 2. COVID-19; PRESUMPTION OF COMPENSABILITY (a)(1) In the case of a front-line worker, disability or death resulting from COVID-19 shall be presumed to be compensable pursuant to 21 V.S.A. chapter 9, provided that the front-line worker receives a positive laboratory test for COVID-19 or a diagnosis of COVID-19 from a licensed healthcare provider between March 1, 2020 and January 15, 2021.

**Telemed**

VERMONT DEPARTMENT OF FINANCIAL REGULATION

EMERGENCY RULE H-2020-02-E

Section 3. Coverage of Telehealth and Audio-Only Telephone Services.

(a) Where clinically appropriate, all health insurance plans and workers' compensation insurance carriers shall provide coverage for all health care services delivered remotely through telehealth or audio-only telephone by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation. Services covered under this subsection shall include services that are covered when provided in the home by home health agencies.

(b) Health insurance plans and workers' compensation insurance carriers shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telehealth or audio-only telephone.

(c) A health insurance plan or workers' compensation insurance carrier may charge an otherwise permissible deductible, co-payment, or coinsurance for a health care service delivered remotely through telehealth or audio-only telephone so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(d) A health insurance plan shall cover the same the number of telemedicine consultations as in-person covered services for each covered person.

(e) Health insurance plans and workers' compensation insurance carriers may require providers to use telemedicine when clinically appropriate, available, and feasible.

(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) Health insurance plans and workers' compensation insurance carriers may require practices to notify members in advance that services delivered remotely through telehealth or audio only telephone will be billed as an in-person visit. Any such notification requirements shall permit providers to notify members during the same call in which services are rendered. No other consent to receive services remotely shall be required.

(h) Health insurance plans and workers' compensation insurance carriers shall not require providers to have an existing patient relationship with a member in order for the member to be reimbursed for health care services described in subsection (a).

Section 4. Coverage of Telephone Triage Services.

(a) All health insurance plans shall provide coverage and reimbursement for Healthcare Common Procedure Coding System (HCPCS) code G2012 (virtual check-in via telephone) to allow providers to receive payment for brief virtual communication services used to determine whether an office visit or other service is needed.

(b) Health insurance plans shall not charge a deductible, co-payment, or coinsurance for telephone triage services.

**9/18/2020**

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**WC Agency Notification**

Bureau of Labor & Industry (State-Fund)

**Pharmacy**

No Guidance Issued

**Medical**

L&I may implement modified policies (such as a temporary telehealth policy) to support providers. The duration of these modified policies will initially last 120 days, after which L&I will assess if a continuation is necessary.

**Established patient:** One who has received professional services from the physician, or another physician of the same specialty who belongs to the same group practice, within the past three years. L&I uses the CPT® definition for established patients. Refer to a CPT® book for complete code descriptions, definitions, and guidelines.

**Originating site:** The place where the worker is located when receiving telehealth services. For the purposes of this policy, the originating site is the worker's home. Refer to Chapter 10: Evaluation and Management (E/M) Services for additional information about telehealth services rendered to a worker at an origination site other than home.

This temporary policy doesn't replace Chapter 10: Evaluation and Management (E/M) Services. This temporary policy does expand services to allow providers and workers to continue treatment and case management during an emergency epidemic and use the worker's home as the originating site. This policy will expire July 3, 2020 unless the department determines an extension is required.

TeleSIMP and Telerehab Payment Policies Now Available

Effective March 25, 2020, Labor and Industries (L&I) is temporarily allowing Structured Intensive Multidisciplinary Program (SIMP) services to be delivered as part of telehealth. This is part of L&I's Chronic Pain Management payment policy. SIMP providers may use telehealth to deliver certain services for workers enrolled in their program. This policy isn't intended to replace Chapter 34: Chronic Pain Management.

Effective March 20, 2020, L&I is also temporarily allowing the delivery of rehabilitation services using telehealth, called telerehab. Physical therapists, occupational therapists, and speech language pathologists may use telehealth to delivery services for established patients in outpatient settings.

L&I's current payment policy and fee schedule already covers phone calls between providers and workers, see Chapter 10: Evaluation and Management Services for more details.

Both of these temporary policies will allow the use of the worker's home as an origination site when they are receiving services. See our Temporary Telehealth Payment Policy for additional details.

Updates and corrections are periodically posted on our Medical Aid Rules and Fee Schedules website.

4.1.20 Labor and Industries (L&I) is temporarily allowing the delivery of Work Hardening (WH) services via telehealth under the Department's current Work Hardening payment policy.

3.5.20 Gov Islee announcement:

Gov. Jay Inslee and Joel Sacks, director of the Washington Department of Labor & Industries (L&I) announced that the state is taking steps to ensure workers' compensation protections for health care workers and first responders who are on the front lines of the COVID-19 (coronavirus) outbreak. L&I is immediately changing its policy around workers' compensation coverage for health care workers and first responders who are quarantined by a physician or public health officer. Under the clarified policy, L&I will provide benefits to these workers during the time they're quarantined after being exposed to COVID-19 on the job. Workers' compensation coverage can include medical testing, cover treatment expenses if a worker becomes ill or injured and provide time-loss payments for those who cannot work if they are sick or quarantined. Current L&I rules already provide for workers' compensation coverage if health care providers and first responders become sick in connection with their job duties. Workers can file a workers' compensation claim up to two years after being exposed to a disease at work. The expanded coverage takes effect immediately and covers eligible workers already under quarantine.

4.6.20 Dept of Labor & Industries #20-008

L&I is now offering a grace period for premium payments, along with payment plans for employers facing financial difficulties during the pandemic. Under this new offer, employers can request for their payment to be deferred for up to 90 days, or can ask for a 90-day payment plan. Either way, the delayed payments will be penalty- and interest-free. Payments for the first quarter of 2020 are due no later than April 30. To be eligible for this coronavirus-related assistance, employers must contact their L&I account manager if they know they won't be able to make their quarterly premium payment. Account managers are available by phone at 360-902-4817. Once employers are approved for the assistance program, L&I will waive late penalties and interest charges as long as qualifying businesses pay their premiums within 90 days. In some cases, the payment plan can be renegotiated if a business goes deeper into financial distress. As part of the agreement, businesses must file their quarterly report on time, which is no later than April 30, 2020. L&I regional offices are closed to walk-in visits because of the outbreak, however, quarterly reports can be filed online through QuickFile.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES

WA

### Telemed

Effective March 20, 2020, L&I is also temporarily allowing the delivery of rehabilitation services using telehealth, called telerehab. Physical therapists, occupational therapists, and speech language pathologists may use telehealth to delivery services for established patients in outpatient settings. Notice by BL&I - Telehealth is permitted as a temporary treatment for WC claims. Also coverage for covid-19 in WC is authorized  
April 6, 2020

To help support containment of the COVID-19 outbreak, the Temporary TeleBrainRehab Payment Policy allows the temporary coverage of telehealth for outpatient brain injury rehabilitation services. This policy is effective 4/6/2020 and expires 7/3/2020. This is an emerging situation, and this policy may be updated as needed.

#### Temporary Interpretive Services via Video or Telephone Policy

4.3.20 Labor & Industries (L&I) is temporarily allowing in-person interpreters the option of providing video or telephone interpretation. The temporary Interpreter Services via Video or Telephone policy is now available on the Medical Aid Rules and Fee Schedules Updates and Corrections webpage. The temporary policy expires July 3, 2020 unless L&I determines an extension is required.

6.23.20 L&I extends this temporary policy above until June 30,2021

6.5.20

Labor & Industries (L&I) temporary telehealth payment policies will extend through June 30, 2021. The original expiration of July 3, 2020 has been extended until next year.

### 9/18/2020

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**WC Agency Notification**

Bureau of Labor & Industry (State-Fund)

**Medical**

The Self-Insurance Medical Bill Electronic Data Interchange (EDI) is now accepting the new COVID-19 Diagnosis Code, U0.71. The EDI will accept any bill that includes this diagnosis code without any disruption. No additional action is required from our customers.

**3.9.20 Temporary Telehealth Policy When Workers Home is Originating Site**

This temporary policy doesn't replace Chapter 10: Evaluation and Management (E/M) Services. This temporary policy does expand services to allow providers and workers to continue treatment and case management during an emergency epidemic and use the worker's home as the originating site. This policy will expire July 3, 2020 unless the department determines an extension is required. Telehealth services and teleconsultations require an interactive telecommunication system, consisting of special audio and video equipment that permits real time consultation between the patient and provider. Providers are responsible for ensuring complete confidentiality and privacy of the worker is protected at all times.

Note: If interpreter services are needed, providers may access a telephonic interpreter using the identified vendor in Chapter 14: Interpretive Services when the worker's home is the originating site. When the worker's home is the originating site, face-to-face interpretation isn't covered.

Provider is responsible for ensuring telehealth is the appropriate method of service delivery. Both the worker and the provider need to be comfortable with the decision to provide services via telehealth.

In addition to the telehealth services that are covered in Chapter 10: Evaluation and Management, group psychotherapy is also temporarily covered when the worker's home is the originating site. When the worker's home is the originating site, services must be billed using place of service -02 (which is defined as, "Telehealth"). HCPCS code Q3014 is only billable by the provider when a medical origination site for services is used. It may not be billed when the worker's origination site is home. Modifier -GT shouldn't be used. For the purposes of this temporary policy, the following must be included in addition to the documentation requirements noted in MARFS for the service you are billing:

A note about the emergency situation (limiting exposure to COVID-19, in this case) that prompted the encounter to occur via telehealth, and

A notation that the worker's home is the originating site.

Labor and Industries (L&I) is temporarily allowing the delivery of outpatient telebrainrehab for comprehensive brain injury evaluations following prior authorization, as well as ongoing treatment by qualified providers. This temporary Telehealth policy helps limit the spread of the coronavirus (COVID-19) outbreak, while still allowing outpatient brain injury rehabilitation services, when appropriate.

Effective March 9, 2020, L&I providers with Commission on Accreditation of Rehabilitation Facilities (CARF) accreditation may use telehealth as a modality to deliver outpatient comprehensive brain injury evaluations and ongoing outpatient brain injury rehabilitation services performed for half-day programs. This temporary policy doesn't replace Chapter 33: Brain Injury Rehabilitation Services, or any other chapters within the Medical Aid Rules and Fee Schedules (MARFS). This temporary policy expands outpatient brain injury rehabilitation services to allow providers and workers to initiate and continue treatment during an emergency epidemic. This policy will expire July 3, 2020 unless the department determines an extension is required.

Labor & Industries (L&I) is temporarily allowing independent medical examiners to deliver exams via telehealth using a real-time audio and video connection.

This temporary IME payment policy helps slow the spread of the coronavirus by allowing the use of the worker's home as an origination site when they are scheduled for an IME. The IME provider must determine telehealth is the most appropriate option for the exam, and the use of telehealth must be agreed to by all parties. • L&I will not provide the worker with or reimburse the worker for equipment. If a worker doesn't have access to high-speed internet via computer or a camera phone with reliable connectivity, the provider must work with the worker to identify an alternative.

• Use the Place of service -02 modifier when submitting bills. This indicates the worker's home was the origination site for telehealth services. Do not use the -GT modifier when billing for telehealth.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES



### **WC Agency Notification**

#### **Pharmacy**

No Guidance Issued

#### **Medical**

AB 1038 Rebuttable presumption that injury caused to first responders during current public health emergency is caused by employment This bill provides that, for the purposes of worker's compensation, an injury caused to a first responder, during any public health emergency declared by the governor on March 12, 2020, by executive order 72 and ending 30 days after the termination of the order, is presumed to be caused by the individual's employment. The presumption requires a diagnosis or positive test for COVID-19, and may be rebutted by specific evidence that the injury was caused outside of employment.

#### **Telemed**

No Guidance Issued

### **9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES



### **WC Agency Notification**

Order of the Governor

#### **Pharmacy**

No Guidance Issued

#### **Medical**

Inasmuch as an insurance emergency and the Governor's declared State of Emergency continue to exist in the State of West Virginia, it is hereby ORDERED that normal time standards for claims handling applicable to workers' compensation insurers and other regulated entities as set forth in Title 85, Series 1, Section 10, of the West Virginia Code of State Rules are suspended in the State of West Virginia until further notice, provided that workers' compensation insurers and other regulated entities shall continue to adjust workers' compensation claims as expeditiously as possible during the insurance emergency and shall utilize all possible methods of adjusting claims remotely, such as telephone, email, facsimile, and mobile applications, all the while striving to meet normal time standards for the adjustment and resolution of claims whenever possible. Workers' compensation insurers and other regulated entities shall prioritize claims adjustment and resolution strategies during this insurance emergency to ensure that high priority claims are addressed before lower priority claims.

The Commissioner recognizes that many medical and healthcare providers have closed offices, deferred or suspended all non-emergent procedures or treatment during the State of Emergency, and that claimants may have difficulty in continuing ongoing care or treatment or obtaining an examination, or may be quarantined or staying in their homes in compliance with Executive Order 9-20, and as a result, opt to forego all but the most necessary of medical treatment due to the COVID-19 crisis.

#### **Telemed**

Workers' compensation insurers and other regulated entities shall immediately review Executive Order 7-20 issued by the Governor on March 19, 2020, and further evaluate their telehealth or telemedicine programs in light thereof in order to ensure that they are being utilized to the fullest extent possible.

The use of telehealth or telemedicine can potentially reduce barriers for treatment as virtual office visits have been identified as a way of safely treating certain patients or claimants while containing or limiting the spread of infection at hospitals, clinics and medical offices. Telehealth services or telemedicine may not be possible or appropriate for all claimants, but may be a useful tool to evaluate or treat some claimants during this crisis.

**9/18/2020**

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## DAILY STATE-BY-STATE WORKERS' COMP COVID-19 POLICY UPDATES



### **WC Agency Notification**

WY Div of Workers Compensation

### **Pharmacy**

No Guidance Issued

### **Medical**

2020 WY S 1002 a

27-14-102. Definitions

(A) Any illness or communicable disease unless the risk of contracting the illness or disease is increased by the nature of the employment. For the period beginning January 1, 2020 through December 30, 2020, if any employee in an employment sector for which coverage is provided by this act is infected with the COVID-19 Coronavirus, it shall be presumed that the risk of contracting the illness or disease was increased by the nature of the employment.

### **Telemed**

3.20.20 Telehealth Visits: A visit with a provider that uses telecommunication systems between a provider and a patient.

Telehealth visits are considered the same as in-person visits and are reimbursed the same as regular, in-person visits

Virtual Check-In: A brief (5-10 minutes) check in with your practitioner via telephone or other telecommunications device to decide whether an office visit or other service is needed. A remote evaluation of recorded video and/or images submitted by an established patient.

### **9/18/2020**

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