

PUBLIC NOTICE

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

PROPERTY AND CASUALTY DIVISION

Notice of Action on Petition for Rulemaking

Review of the Medical Fee Schedule

N.J.A.C. 11:3-29, Appendix Exhibit 4

Petitioner: Medical Transportation Association

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2

Take notice that on March 20, 2006, the Department of Banking and Insurance (Department) received a petition for rulemaking from the above petitioner requesting that the Department review over-due adjustments to the medical fee schedule, currently found at N.J.A.C. 11:3-29 Appendix, Exhibit 4, covering the reimbursement by insurers for ambulance and other necessary medical transportation services. N.J.S.A. 39:6A-4.6(a) requires the Commissioner to promulgate medical fee schedules for the reimbursement of health care providers of medical expense benefits for which payment is made pursuant to personal injury protection (PIP) coverage. The petitioner noted that this section further requires such fee schedules to "be adjusted biennially for inflation and for the addition of new medical procedures."

The petitioner stated that the schedule used for ambulance service and associated items has not been adjusted since 2001 and that there has been no review for new medical procedures. The petitioner contended that the cost of providing ambulance service to motor vehicle accident victims is often greater than the current reimbursement rate limit established by the Department. The petitioner stated that most often the unscheduled emergency response to a motor vehicle collision is provided by local government 9-1-1 and contracted 9-1-1 providers. Additionally, the petitioner stated that these providers cannot recover their costs because of the prohibition found at N.J.A.C. 11:3-29.5, which limits a health care provider's reimbursement to the fees set forth therein.

The petitioner requested that the Department adjust the ambulance service and associated rates, and that the rate should be greater than the established Medicare rate.

Additionally, the petitioner requested the inclusion of payment for lower levels of medical transportation services, such as wheelchair and medical car, when appropriate. The petitioner contended that the allowance of these additional levels of service for the transfer of injured parties (in a non-emergency setting) would ensure that the person receives the necessary medical treatment, aimed toward promptly returning them to their normal living arrangements.

On May 11, 2006, the Department referred this matter for further deliberation in order to finalize a notice of action on the petition for rulemaking by the Medical Transportation Association (see 38 N.J.R. 2745(c)).

The Commissioner certifies that the petition was duly considered pursuant to law, and, upon due deliberation, has determined that the petition should be denied. The Department's denial is based on the fact that it is proposing amendments, new rules and repeals (Appendix Exhibits) to N.J.A.C. 11:3-29, notice of which appears elsewhere in this issue of the New Jersey Register. As part of that proposal, the Department proposes a new Appendix, Exhibit 4. The new fee schedule proposed for ambulance services at N.J.A.C. 11:3-29, Appendix, Exhibit 4 includes several new codes and be based on 2006 Medicare rates for New Jersey, with the fees proposed therein set at 100 percent of the current Medicare rates, consistent with the present rule. Unlike the amendments suggested by the petitioner, the Department's proposal uses the two New Jersey geographic regions that are currently used by Medicare (north and south,) and does not include payment for wheelchair services. The Department notes, however, that the petition identified eight categories of services, other than wheelchair-related services, with suggested new fee amounts. On six of those eight types of service, the difference between the petitioner's suggested fee amount and the amount in the Department's proposed new fee schedule applicable to the Northern New Jersey region is less than one dollar.

Given the inclusion of a new Appendix Exhibit 4 to N.J.A.C. 11:3-29 as part of its rulemaking proposal on Medical Fee Schedules in general, the Department has determined to deny this petition. The petitioner is invited to submit comments on the Department's notice of proposal referenced above.

A copy of this Notice of Action has been mailed to the petitioner.