



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF THE COMMISSIONER
PO BOX 325
TRENTON, NJ 08625-0325
TEL (609) 292-7272

JON S. CORZINE
Governor

NEIL N. JASEY
Commissioner

BULLETIN NO. 09-26

TO: ALL NEW JERSEY PRIVATE PASSENGER AUTOMOBILE INSURERS AND
MOTORBUS INSURERS

FROM: NEIL N. JASEY, COMMISSIONER

RE: AUTO MEDICAL FEE SCHEDULE RULE IMPLEMENTATION

On August 10, 2009, the Appellate Division of the New Jersey Superior Court issued its decision in the challenge to the adoption of amendments to N.J.A.C. 11:3-29, "Medical Fee Schedules: Automobile Insurance Personal Injury Protection and Motor Bus Medical Expense Insurance Coverage." In the unanimous decision, In Re Adoption of N.J.A.C. 11:3-29 by the State of New Jersey, Department of Banking And Insurance, Docket No. A-0344-07T3, (<http://lawlibrary.rutgers.edu/courts/appellate/a0344-07.opn.html>), the Appellate Division affirmed the validity of the rules and found that the Department engaged in extensive consultation with provider groups, conducted a detailed review of multiple sources of fee data, and made "considered and informed judgments" in developing its rules and comprehensive fee schedules, concluding that the adoption of the rule met the requirements of the statute.

This decision lifts the stay of the implementation of the rules that had been imposed by the Appellate Division pending substantive consideration of the appeal. However, the Court, referencing litigation concerning the Ingenix database, enjoined the use of that database for the calculation of the usual, customary and reasonable (UCR) fees for services that are not on the fee schedule until the Department reviews the reliability of the database. The Department is currently gathering the information necessary to undertake the review ordered by the Appellate Division. When the review is completed, the Department will issue a determination.

The Department notes that the Appellate Division did not make any part of its decision retroactive. Consequently, the new rules and fee schedules will apply to bills for services or supplies provided on or after August 10, 2009 and the prior rules and fee schedules will apply to bills for services or supplies provided prior to that date.

In addition, the Appellate Division decision noted that the Department should be open to making "discrete judgments to the [fee schedule] rates as experience may warrant." Since the issuance of this decision, the Department has received information from the regulated community identifying a number of nonsubstantive errors on the Physicians' Fee Schedule and certain changes in CPT coding as set out below. In light of the Appellate Division's guidance and in order to address these technical issues, this Bulletin is being issued to provide guidance to the regulated community on the correct

application of the erroneous items on the fee schedule. Going forward, regulated entities should be guided by these clarifications. In the near future, the Department will propose amendments to the fee schedule rule to conform the entries on the schedule to the revisions noted in the chart below.

CPT Code		Fee Schedule North	Fee Schedule South	Explanation of Revision
62281		\$751.62	\$705.2	Typographical error; the fee for the South region should be \$705.20.
72052	29	\$35.22	\$34.10	The modifier should be -26 not -29.
73615		\$132.57	\$122.07	This fee should have the modifier –TC.
73615		\$40.40	\$39.10	This fee should have the modifier -26 (the Global fee for this code is correct.)
77334	TC	\$295.65	\$276.52	The –TC modifier should be removed because this is the global fee.
83020		\$23.39	\$23.39	This code should be deleted because this procedure is only payable per the fee schedule for the Professional Component (-26) (next entry on the schedule) and the fee is correct.
83912		\$7.28	\$7.28	This code should be deleted because this procedure is only payable per the fee schedule for the Professional Component (-26) (next entry on the schedule) and the fee is correct.
84165		\$19.51	\$19.51	This code should be deleted because the correct fee for CPT 84165 is the next entry on the schedule and it should have the Professional Component modifier (-26) (see next row).
84165		\$28.18	\$27.21	This code should have the Professional Component modifier (-26).
85025	26			This code should be deleted. The correct fee for this CPT is the next entry on the schedule (North - \$24.32 and South - \$21.68).
85610	26			This code should be deleted. The correct fee for this CPT is the next entry on the schedule (North - \$7.14 and South - \$7.14).
86255		\$21.89	\$21.89	This code should be deleted. The code and description are a combination of the codes above and below it.
95816		\$200.73	\$184.52	This code should have the modifier –TC.
76003	TC	\$189.45	\$174.39	These were recodified in CPT without any revision to the procedures. Therefore, the fees on the schedule for 76003 should be crosswalked to services billed under 77002.
76003	26	\$90.75	\$87.87	
76003		\$280.20	\$262.29	
76005	TC	\$189.45	\$174.39	These were recodified in CPT without any revision to the procedures. Therefore, the fees on the schedule for 76005 should be crosswalked to services billed under 77003.
76005	26	\$96.30	\$93.54	
76005		\$285.75	\$267.96	
76006		\$35.06	\$33.87	This was recodified in CPT without any revision to the procedure. Therefore, the fees on the schedule for 76006 should be crosswalked to services billed under 77071.
85021		\$12.59	\$12.59	These codes on the Fee Schedule are no longer in CPT. As a result, the services to which these eight codes apply should not be billed based upon the fee schedule.
85022		\$14.59	\$14.59	
85023		\$18.31	\$18.31	

CPT Code	Fee Schedule North	Fee Schedule South	Explanation of Revision
85031	\$0	\$0	
87060	\$10.63	\$10.63	
87072	\$10.80	\$10.80	
87087	\$11.27	\$11.27	
87163	\$11.95	\$11.95	

Interested parties should also check the PIP Information for Health Care Providers page on the Department’s website: <http://www.state.nj.us/dobi/pipinfo/medfeeqa.htm> where additional information on the implementation of the new PIP rules and fee schedules, such as a FAQ (Frequently Asked Questions) and the Department’s Statement on the Appellate Division case can be found. Questions about the Fee Schedule rules can be addressed to Jean Bickal, 609-292-0844, ex 50023, jean.bickal@dobi.state.nj.us).

09/02/09
Date

/s/ Neil N. Jasey
Neil N. Jasey
Commissioner