

STATE OF NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE REQUEST FOR INFORMATION FROM CERTAIN PERSONAL LINES PRIVATE PASSENGER AUTO INSURERS REGARDING PAYMENTS MADE TO PROVIDERS ON PERSONAL INJURY PROTECTION CLAIMS) ORDER

This matter has been opened by the Commissioner of the Department of Banking and Insurance ("Commissioner") pursuant to N.J.S.A. 17:1-8.1, 17:1-15e, and 17:23-20 and all powers expressed or implied therein; and

IT APPEARING that a bill has been introduced in the New Jersey Senate (S-761) that would amend N.J.S.A. 39:6A-4.6 to change the standard for the compilation of the Personal Injury Protection ("PIP") Medical Fee Schedules ("Fee Schedules") referenced therein; and

IT FURTHER APPEARING that the new standard being considered would base the Fee Schedules on the fees accepted by providers from personal lines private passenger automobile insurers in New Jersey; and

IT FURTHER APPEARING that in order to assess the impact of the potential change in methodology, the Department seeks to collect paid PIP fee data from insurers; and

IT FURTHER APPEARING that in recognition of the fact that the paid fee data of individual insurers is proprietary pursuant to N.J.S.A. 17:23-24f, the individual insurer information provided shall be deemed confidential and shall not be considered a public record for purposes of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. The compiled data from all insurers shall, however, not be considered confidential and may be made public;

THEREFORE, IT IS on this 21st day of April, 2008 ORDERED that:

- 1. All personal lines private passenger automobile insurers having more than 25,000 in-force exposures on December 31, 2007, shall provide the data requested in Exhibit A in the forms provided in Exhibits B and C no later than 60 days from the date of this Order; and
2. The requested Excel spreadsheets shall be submitted in electronic form (CD, email attachment or other electronic transmission) to:

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New Jersey Department of Banking and Insurance
20 West State St.
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3. Individual insurer data provided pursuant to this Order shall, pursuant to N.J.S.A. 17:23-24(f), be deemed confidential and not be considered a public record for purposes of the Open Public Records Act, N.J.S.A. 47:1A-1, et seq.
4. Failure to supply the information as directed in this order may result in the imposition of penalties as set forth in N.J.S.A. 17:33-2.

/s/ Steven M. Goldman
Steven M. Goldman
Commissioner

Exhibit A

Instructions for Data Filing

Insurers should report paid fee data in two different spreadsheet formats as follows:

1. In the spreadsheet format attached as Exhibit B, insurers should report on clean paid fee data for CPT codes that are NOT on the current physicians' fee schedule. The paid fee data should include fees paid to providers and facility fee payments to Ambulatory Surgical Centers (ASC's) by region in 2006 and 2007. In addition, Exhibit B shall be used to report any facility fee payments to ASC's for CPT codes that are on the current physicians' fee schedule if such payments were made in excess of the fee schedule amounts. Services not billed by CPT code shall not be reported.

2. In the spreadsheet format attached as Exhibit C, insurers should report the total number of units and the total amount paid for each of the 92 CPT codes that are on the current physicians' fee schedule by region in 2006 and 2007. The total amount paid should include ALL payments made, not just those that meet the definition of a "clean paid fee." Any facility fee paid to an ASC for a CPT code on the current physicians' fee schedule that was in excess of the fee schedule amount shall be reported individually on Exhibit B.

"Clean paid fee" means that the fee paid has been accepted by the provider or ASC and does not include reductions or adjustments due to: the imposition of penalties for failure to comply with a decision-point review plan; duplicate billings; non compliance with policy provisions; maximum medical improvement from an Independent Medical Examination; the exhaustion of policy limits, the imposition of co-payments or deductibles, the use of modifiers in CPT except for -TC or -26, the multiple procedure reduction formula, a correct-coding audit, litigation or arbitration. "Clean fee" does include fees accepted by providers as part of Preferred Provider Organization contract provisions or insurer determinations of the usual and customary fee for a service.

The "current physicians' fee schedule" means the physicians' fee schedule adopted by the Department in July, 2001.

The requested paid fee data can be provided by the insurer or by its PIP vendor. A PIP vendor that provides services to more than one insurer can provide aggregated data for its clients including those that do not meet the 25,000 in-force exposure threshold. Vendors shall identify the insurers for which they are submitting data but may submit the data in a compiled form. Vendors are not required to designate specific fees paid by specific insurers.

The columns on Exhibit B are as follows:

CPT – the 5-digit Current Procedural Terminology (© American Medical Association) code used to bill for the service. Services not billed by CPT codes should not be included.

Modifier – The only clean fees with modifiers that should be reported are those CPT codes that use the –TC and -26 modifiers. Such fees should be reported on three lines, for example, 70065 (no modifier = the global fee); 70065-TC (technical component); and -26 (the professional component).

Region – Clean fee data should be reported using the Medicare North and South regions as defined in the fee schedule rule, N.J.A.C. 11:3-29.3, adopted by the Department on October 1, 2008 and subsequently stayed by order of the Appellate Division of the Superior Court of New Jersey, as follows:

South Region consists of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem counties, which are comprised of the following three- and five-digit zip codes in New Jersey: 077, 080, 081, 082, 083, 084, 086 and 087. The South Region also includes: 08501, 08505, 08510, 08511, 08514 through 08527, 08533 through 08535, 08540 through 08550, 08554, 08555 and 08560 through 08562.

North Region consists of Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren counties, which are comprised of the following three- and five-digit zip codes in New Jersey: 070, 071, 072, 073, 074, 075, 076, 078, 079, 088 and 089. The North Region also includes: 08502, 08504, 08512, 08528, 08530, 08536, 08551, 08553, 08556 through 08559 and 08570.

Year: The year that the service was paid. Data from calendar years 2006 and 2007 is requested.

Units: the number of individual clean fee payments made to the same provider for the same CPT code. For example, 3 units at 538.72 means that 538.72 was paid three times to the same provider during the reporting period. Depending on the insurer's or vendor's system, it is not required that units be aggregated. That is, 538.72 could be listed as 1 unit three times.

Clean Fee Amount per Unit: the amount paid to the provider for the service.

ASC: a Yes/No field that indicates whether the reported fee was paid to an ASC as a facility fee.

Provider: The Department wants to know how many providers have been reimbursed for each CPT code and the number of times an individual provider received payment for each CPT code but does not want to identify the provider. Tax Identification Numbers (TINs) are used by payors to make payments to providers. Insurers and vendors can assign a unique number to each TIN or just use part of the TIN in this field. For example, TIN 22-

1234567 could be represented in the field as “01” or “4567”. It is not necessary to use the same provider identification for every CPT code.

The columns on the Exhibit C spreadsheet are as follows:

CPT- the CPT codes of the current fee schedule are listed.

Modifier – same as Exhibit B

Region – same as Exhibit B

Total # of Units - means the total number of times that payment was made for this code regardless of whether the amount paid has been adjusted by co-payments, penalties, modifiers, etc

Total Amount Paid - means the total amount of payments that have been made for this code regardless of whether the amount paid has been adjusted by co-payments, penalties, modifiers, etc

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