

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF PROPERTY AND CASUALTY

Medical Fee Schedules: Automobile Insurance Personal Injury Protection and Motor Bus Medical Expense Insurance Coverage

Home Care Services

Adopted Repeal and New Rule: N.J.A.C. 11:3-29 Appendix, Exhibit 3

Proposed: November 3, 2008 at 40 N.J.R. 6375(a)

Adopted: May 20, 2009 by Steven M. Goldman, Commissioner, Department of Banking and Insurance.

Filed: May 20, 2009 as R. 2009, d.194, **without change.**

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 39:6A-4.6.

Effective Date: June 15, 2009

Expiration Date: June 7, 2011

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) timely received three written comments from Mr. Martin Rosen; New Jersey Manufacturers Insurance Group; and New Jersey Home Care Association.

COMMENT: One commenter stated its support for the proposed Home Care Fee Schedule and thanked the Department for allowing it to provide data on fees paid by other payors for these services and the corresponding HCPCS codes that will simplify billing for these services.

RESPONSE: The Department appreciates the support.

COMMENT: One commenter requested that the Department increase fees for live-in aides from \$140.00 per day to \$180.00 - \$200.00 per day for Certified 24/7 live-in aides, because if either of his current aides left replacements, could not be found at the current fee schedule level.

RESPONSE: The Department notes that the adopted new rule will raise the fees for live-in attendants (aides) to \$180.00 per day and believes that this should enable the commenter to retain new aides should doing so become necessary.

COMMENT: One commenter questioned the timing of the proposal in light of the pending appeal, challenging the Department's adoption of other fee schedules in August 2007, because some of the services in the proposal were similar to those on the Physicians' Fee Schedule which the Appellate Division stayed pending decision in the appeal. The commenter noted that the proposal contained fees for physical, occupational and speech therapists, which are also in the Physicians' Fee Schedule. The commenter stated that the fees on the proposed Home Care Fee Schedule were significantly higher than the fees on the Physicians' Fee Schedule without any justification. The commenter also stated that although the Department's proposed fee for medical social workers is now per visit rather than hourly, the amount is more than triple the hourly rate contained in the current schedule. The commenter contends that the Department has not provided justification for setting such a rate which exceeds the amounts paid to any other category on the proposed Home Care Fee schedule.

RESPONSE: The Department does not agree with the commenter that the fees on the Home Care Fee schedule should be similar to those on the Physicians' Fee Schedule. Home Care services are different and this is why Home Care services have their own fee schedule. Such services are not designated by Common Procedural Terminology (CPT) codes, which are used for the Physicians' Fee Schedule. Home Care services require that the provider travel to and from the patient's home and

perform all of the covered services, some of which, if rendered in an office setting, might be done by office staff or aids. Home Care patients typically have more serious health issues that complicate their care and may require more time from the provider. Therefore, it is appropriate for the fees on this schedule to be different from those on the Physicians' Fee Schedule. As noted in the Summary of the proposal, the Department consulted with the New Jersey Home Care Association to determine what market-based fees are paid by other health payors for these services, including those provided by medical social workers. Based on the information provided to the Department, the Department believes that its schedule appropriately reflects what medical social workers are paid for home-care visits. The commenter did not provide any data showing that the fee for medical social worker home care visits on the adopted new rule differs significantly from what is paid for these services by other payors.

Federal Standards Statement

A Federal standards analysis is not required because the medical fee schedules and rules are not subject to any Federal requirements or standards.

Full text of the adopted new rule follows:

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