

State of South Carolina

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Workers' Compensation Commission

Report of the Presiding Officer, Chairman T. Scott Beck Proposed Changes to Regulation 67-1302 A Document No. 4188 September 13, 2011

Pursuant to Section 1-23-111 of the SC Code of Laws, 1976 the following is a report subsequent to the Public Hearing on August 15, 2011 at which time and place the Commission received public comment on the proposed changes to Regulation 67-1302 A. This report includes the findings as to the need and reasonableness of the proposed changes.

Background

Regulation R 67-1302(A) limits the Commission to using a relative value scale and a conversion factor when establishing maximum allowable payments for medical services provided by medical practitioners. The Commission established a maximum allowable payment by adopting a Medical Services Provider Manual in 2003. The maximum allowable payment was developed based on a financial model using the Resource Based Relative Value System (RBRVS) established by the U. S. Department of Health and Human Services Center for Medicare/Medicaid Services and a conversion. The proposed amendment will remove the language related to the relative value scale and the conversion factor to allow the Commission to consider different methodologies for calculating the maximum allowable payments for medical services provided by medical practitioners.

The proposed change:

~~Indicates Matter Striken~~

Indicates New Matter

67-1302(A). The Commission shall establish maximum allowable payments for medical services provided by medical practitioners, ~~based on a relative value scale and a conversion factor set by the Commission.~~

(1) The maximum allowable payments and any policies governing the billing and payment of services provided by medical practitioners shall be published in a medical services provider manual.

~~(2) The Commission may review and update the relative values and/or the conversion factor as needed.~~

Notice of Drafting

The Notice of Drafting regarding this regulation was published in the *State Register* on March 25, 2011. The proposed change, notice of comment period and notice of public hearing (Document No. 4188) was published in the *State Register* on June 24, 2011.

Notice of Public Hearing and Opportunity for Public Comment

The Commission received written comments on the proposed changes until 5:00 p.m. August 8, 2011. A public hearing was conducted on August 15, 2011 at 10:30 a.m. in Hearing Room A at the South Carolina Workers' Compensation Commission, 1333 Main Street, Columbia, SC 29201.

Findings

The Workers' Compensation Commission is the regulatory agency of the State of South Carolina responsible for overseeing and administering the South Carolina Workers' Compensation Act. SC Code Ann. § 42-1-10 et seq. (1976). The Commission has the authority to approve or deny medical fees, as well as the statutory and regulatory discretion to set the amount of fines. § 42-15-90; R 67-1302.

The language in regulation R 67-1302 limits the Commission to using a relative value system and a conversion factor when developing maximum allowable payments for medical services providers. During the process of updating the Medical Services Provider Manual (Physician's Fee Schedule) in 2010, the Commission recognized a need for more flexibility in the event that other models provide more simplistic or cost effective alternatives for calculating the maximum allowable payments. The proposed change will not alter the existing fee schedule adopted in 2010 used to calculate the maximum allowable payment to medical services providers. It does not prohibit the Commission from continuing to utilize financial models based upon relative values and a conversion factor to develop the maximum allowable amount paid to medical services providers. To change the current methodology used to establish a maximum allowable payment requires a separate and distinct vote by the Commission.

Fiscal Impact Statement

The fiscal impact of the proposed changes to this regulation is \$0.

Statement of Need and Reasonableness

The Workers' Compensation Commission is the regulatory agency of the State of South Carolina responsible for overseeing and administering the South Carolina Workers' Compensation Act. SC Code Ann. § 42-1-10 et seq. (1976). The Commission has the authority to approve or deny medical fees, as well as the statutory and regulatory discretion to set the amount of fines. § 42-15-90; R 67-1302. The proposed regulation is reasonable and does not affect the current fee schedule. Any change to the existing fee schedule will require a separate and distinct vote by the Commission. The change allows

the Commission to consider alternative methods for calculating the maximum allowable payment for medical services providers.

DESCRIPTION OF REGULATION: R 67-1302. Maximum Allowable Payments to Medical Practitioners

Purpose: Establishes the maximum allowable payment of services provided by medical practitioners.

Legal Authority: Section 42-15-90. Fees of attorneys and physicians and hospital charges shall be approved by Commission.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Commission recognized a need for amending the regulation during the process of developing the maximum allowable payments for the Medical Services Provider Manual (Physician's Fee Schedule) in 2010. The language in Regulation 67-1302 restricted the Commission to using the methodology based on a relative value and a conversion factor. Therefore the Commission determined a need to amend the regulation to remove the limitations in the existing regulation to provide the Commission greater flexibility to consider alternative methods for calculating the maximum allowable payments. The proposed regulation is reasonable. The change does not prohibit the Commission from continuing to utilize a relative value system and a conversion factor to develop the maximum allowable payments in the fee schedule. The amendment will remove existing limitations to develop maximum allowable payments for medical practitioners providing medical services in workers' compensation cases.

DETERMINATION OF COSTS AND BENEFITS:

There are no additional costs to the agency related to the proposed change to the regulations. The change benefits the Commission by allowing their consideration of more than one methodology for developing a fee schedule.

UNCERTAINTIES OF ESTIMATES:

None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

None

Statement of Rationale:

The Commission is proposing to amend regulation R 67-1302(A) to remove the limitation of using a relative value scale and a conversion factor. The Commission is authorized to approve maximum allowable payments for medical service providers. The Commission has a public policy interest in assuring injured workers have access to medical services providers and controlling the medical cost to the system. Therefore the Commission has an interest in balancing the needs of injured workers' having access to medical care and controlling the medical cost of the system. Removal of the limiting language in the existing regulation will allow the Commission to consider alternative methodologies for establishing maximum allowable payments.

Text:

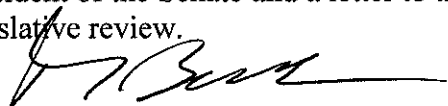
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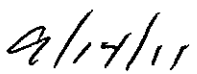
~~(2) The Commission may review and update the relative values and/or the conversion factor as needed.~~

Recommendation

After reviewing all of the written material submitted and recorded at the public hearing and pursuant to Section 1-23-111 of the SC Code of Laws, I find the proposed changes to R 67-1302 (A) reasonable and direct staff initiate the process of legislative review by filing the proposed change with the Editor of the State Register to include a letter to the President of the Senate and a letter to the Speaker of Representatives requesting legislative review.



T. Scott Beck, Chairman



Date