

**TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION  
CHAPTER 15. MEDICAL SERVICES**

**SUBCHAPTER 3. WORKERS' COMPENSATION FEE SCHEDULE**

**810:15-3-3. Allowable reimbursement for advanced practice registered nurses**

A certified advanced practice registered nurse (APRN) shall be allowed eighty-five percent (85%) of the fee schedule allowance for Evaluation and Management services and other services performed within the advanced practice registered nurse's license and certification, subject to the conditions and procedures set forth in General Ground Rule 13 of the 2012 fee schedule. When billing for services provided by an APRN, use the modifier (-NP).

**SUBCHAPTER 9. INDEPENDENT MEDICAL EXAMINERS**

**810:15-9-1. Qualifications**

(a) The Commission shall maintain a list of private physicians to serve as independent medical examiners. The list shall be placed on the Commission's website at <http://www.wcc.ok.gov>.

(b) To be eligible for appointment by the Commission to the list of qualified independent medical examiners, and for retention on the list, the physician must:

- (1) have a valid, unrestricted professional license as a physician which is not probationary;
- (2) have at least three (3) years' experience and competency in the physician's specific field of expertise and in the treatment of work-related injuries;
- (3) be knowledgeable of workers' compensation principles and the workers' compensation system in Oklahoma, as demonstrated by prior experience and attend Commission ~~sponsored~~ approved educational programming at least once every two (2) years, including programming in the Official Disability Guidelines if a treating physician and/or in the American Medical Association's "Guides to the Evaluation of Permanent Impairment" if a rating physician;
- (4) have in force and effect health care provider professional liability insurance from a domestic, foreign or alien insurer authorized to transact insurance in Oklahoma. The per claim and aggregate limits of the insurance must be at least One Million Dollars (\$1,000,000.00);
- (5) have no felony conviction under federal or state law within seven (7) years before the date of the physician's application to serve as a qualified independent medical examiner; and
- (6) have a valid Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (BNDD) registration and federal Drug Enforcement Agency (DEA) registration, as authorized by law for the physician's professional license.

(c) Physicians who are serving unexpired terms as qualified independent medical examiners for the Oklahoma Workers' Compensation Court on February 1, 2014 shall serve as qualified independent medical examiners for the Commission until their respective terms expire, unless voluntarily terminated by the physician or revoked by the Commission, and may reapply for successive qualification periods. The two year period in which to meet the educational requirement in 810:15-9-1(b)(3) commences with the independent medical examiner's first appointment or renewal after February 1, 2014.

**810:15-9-4. Requests for assignment**

(a) Appointment of an independent medical examiner from the Commission's list of independent medical examiners is governed by this Section. Appointments shall take into account the specialty, availability and location of the examiner. The independent medical examiner selected shall be certified by a recognized specialty board in the area or areas appropriate to the condition under review.

(b) Requests for the appointment of an independent medical examiner may be set for a prehearing conference, at the discretion of the Commission.

(c) An independent medical examiner may be appointed on any issue before the Commission, including to determine if further medical treatment is needed following a full duty release on all body parts by the treating physician. If surgery is recommended by a treating physician, upon written request of the employer made on a CC-Form-13 filed within twenty (20) days of receipt of the treating physician's report, an independent medical examiner who is qualified to perform the type of surgery recommended shall be appointed to determine the reasonableness and necessity of the surgery. The twenty-day request deadline may be waived by agreement of the parties or for good cause shown.

(d) The parties shall send the employee's medical records to the independent medical examiner by regular mail within ten (10) calendar days of receipt of the Commission order assigning the examiner. If necessary, the independent medical examiner may contact persons in whose possession the records or information is located solely for the purpose of obtaining such records or information.

(e) An independent medical examiner's opinion is binding unless there is clear and convincing evidence to the contrary. Deviations by the Commission from the independent medical examiner's opinion must be explained.

### **SUBCHAPTER 13. CHANGE OF TREATING PHYSICIAN**

#### **810:15-13-1. Scope**

(a) This Subchapter applies to requests to the Commission for a change of treating physician made by a claimant who is not subject to a certified workplace medical plan. These requests are authorized in 85A O.S. § 56(B).

(b) (1) Requests for a change of treating physician sought by an injured employee of an employer that previously contracted with a certified workplace medical plan are not subject to this Subchapter. Such requests must be made by utilizing the plan's dispute resolution process on file with the State Department of Health.

(2) Each certified workplace medical plan shall notify the Executive Director in writing of the plan's appropriate internet website address where its dispute resolution form(s) and current list of providers may be accessed electronically by the general public. A plan shall notify the Executive Director in writing upon a change of the website address where the required information may be accessed.

### **SUBCHAPTER 15. MEDICAL DISPUTE RESOLUTION**

#### **810:15-15-2. Payment of charges**

(a) As provided in 85A O.S., § 50(H), payment for medical care required by the AWCA is due within forty-five (45) days of receipt by the employer or insurance carrier of a complete and accurate invoice. The late payment of medical charges, absent good cause, may subject the employer or insurance carrier to a Commission ordered penalty of up to twenty-five percent (25%) of any amount due under the Oklahoma workers' compensation fee schedule that remains unpaid. The Commission also may assess a civil penalty of up to Five Thousand Dollars (\$5,000.00) per occurrence if the Commission finds a pattern of an employer or insurance carrier willfully and knowingly delaying payments for medical care. Any such fines and penalties assessed under the AWCA, upon collection, shall be deposited to the Workers' Compensation Fund created in 85A O.S., § 28.

(b) Medical care provided as recommended by the ODG is presumed reasonable, and also is presumed to be health care reasonably required. In order for the insurance carrier to deny payment for medical services that are recommended by the ODG, the denial must be supported by clear and convincing medical evidence. A medical provider whose services exceed, are not recommended, or are not addressed

by the ODG, must support the deviation from the ODG by clear and convincing medical evidence, in writing to the insurance carrier, as a condition of payment for services rendered. Resolution of medical fee disputes involving deviation from the ODG are governed by 810:15-15-4.

### **810:15-15-3. Medical dispute resolution of fee disputes**

(a) **Applicability.** This Section applies to a request to the Commission for a medical fee dispute resolution (MFDR) pertaining to an injury sustained by an injured employee on and after February 1, 2014. Medical fee dispute resolution requests involving an injury occurring before February 1, 2014 shall be resolved in accordance with the statutes and rules applicable to the Oklahoma Workers' Compensation Court of Existing Claims.

(b) **Provider Request for MFDR.** Requests by a health care provider for MFDR shall be filed and processed in the form and manner prescribed in this Section.

(1) **MFDR Form 19.** A provider may initiate proceedings to address a medical fee dispute by filing a Commission prescribed MFDR Form 19 with the Commission. A copy of the form may be obtained from the Commission at its main offices, or from the Commission's website.

(2) **Request for hearing.** A provider may request a hearing for determination of the issues raised on the MFDR Form 19 by filing a request for hearing before an administrative law judge of the Commission as provided in ~~810:2-5-16~~ 801:10-5-16. The provider shall send a copy of the request for hearing, together with a copy of the MFDR Form 19 and the records and supporting documentation required in Paragraph (4) of this Subsection, to the insurance carrier. The insurance carrier shall file a response to the MFDR Form 19 as provided in Paragraph (5) of this Subsection.

(3) **Contents of MFDR Form 19.** The health care provider's MFDR Form 19 shall include the following information, and such other information as may be required on the form, and shall be signed by the provider under penalty of perjury:

- (A) the name, address, and contact information of the provider;
- (B) the name of the injured employee;
- (C) the date of injury;
- (D) the date(s) of the service(s) in dispute;
- (E) the place of service;
- (F) the treatment or service code(s) in dispute;
- (G) the amount billed by the health care provider for the treatment(s) or service(s) in dispute;
- (H) the amount paid by the workers' compensation insurance carrier for the treatment(s) or service(s) in dispute;
- (I) the disputed amount for each treatment or service in dispute;
- (J) a statement of whether or not there is a final decision regarding compensability, extent of injury, liability and/or medical necessity for the health care related to the dispute; and
- (K) a position statement of the disputed issue(s) which includes:
  - (i) the provider's reasoning for why the disputed fees should be paid,
  - (ii) a discussion of how the AWCA, Commission rules, and/or the Oklahoma workers' compensation fee schedule impacts the disputed fee issues, including reference to the specific general instruction, ground rule or other provision of the Oklahoma workers' compensation fee schedule serving as the basis for the requested reimbursement, and
  - (iii) a discussion of how the submitted documentation supports the provider's position for each disputed fee issue.

(4) **Supplemental records and documentation.** The following records and documentation

applicable to a provider's MFDR Form 19 shall be sent by the provider to the insurance carrier as provided in Paragraph (2) of this Subsection, but shall not be attached to the MFDR Form 19 when the form is filed with the Commission:

- (A) a paper copy of all medical bills related to the dispute, as originally submitted to the insurance carrier;
- (B) a paper copy of each explanation of benefits (EOB) related to the dispute as originally submitted to the health care provider;
- (C) a copy of all applicable medical records related to the dates of service in the dispute; and
- (D) any other documentation that the provider deems applicable to the medical fee dispute.

(5) **Respondent response.**

(A) The insurance carrier shall respond to the MFDR Form 19 by filing a Commission prescribed MFDR Form 10M within thirty (30) days of the file-stamped date of the CC-Form-9 Request for Hearing filed by the provider. The response shall provide any missing information not provided by the health care provider and known to the respondent. The MFDR Form 10M shall include the following information, and such other information as may be required on the form, and shall be signed by the respondent under penalty of perjury:

- (i) the name, address, and contact information of the respondent; and
- (ii) a position statement of the disputed issue(s) which includes:
  - (I) the respondent's reasoning for why the disputed fees should not be paid,
  - (II) a discussion of how the AWCA, Commission rules, and/or the Oklahoma workers' compensation fee schedule impacts the disputed fee issues, including reference to the specific general instruction, ground rule or other provision of the Oklahoma workers' compensation fee schedule serving as the basis for the respondent's position, and
  - (III) a discussion of how the submitted documentation supports the respondent's position for each disputed fee issue.

(B) The respondent shall send the MFDR Form 10M, together with the following records and documentation applicable to the respondent's MFDR Form 10M, to the provider. The records and documentation shall not be attached to the MFDR Form 10M when the form is filed with the Commission:

- (i) a paper copy of all initial and appeal EOBs related to the dispute, as originally submitted to the health care provider, related to the health care in dispute not submitted by the health care provider, or a statement certifying that the respondent did not receive the health care provider's disputed billing before the MFDR Form 19 dispute request;
- (ii) a paper copy of all medical bills related to the dispute, if different from that originally submitted to the insurance carrier for reimbursement; and
- (iii) a copy of any pertinent medical records or other documents relevant to the fee dispute not already provided by the health care provider.

(6) **Determination of allowable amounts.**

(A) **Audits.** Audits of medical bills to determine the amount allowable under the appropriate Oklahoma workers' compensation fee schedule may be offered by each party. Audits prepared by billing review services, medical bill audit services or in-house auditors may be submitted as evidence reflecting the methodology of the application of the fee

schedule. The fee schedule sets maximum amounts allowable but does not prohibit a party from asserting a lesser amount should be paid.

(B) **Referral to the Health Services Division.**

(i) The Commission, at its discretion, may refer medical fee disputes which involve conflicting interpretations of the Oklahoma workers' compensation fee schedule and a reduction by the insurance carrier of the provider's bill for health care services determined to be medically necessary and appropriate for the injured employee's compensable injury, to the Commission's Health Services Division for a recommendation regarding the maximum reimbursement amount allowed under the fee schedule for the services rendered.

(ii) Medical fee disputes involving the denial by an insurance carrier of a bill for services based on denial of compensability of the injured employee's injury or occupational disease, length of treatment, necessity of treatment, unauthorized physician or other ground, shall not be referred to the Division.

(7) **Hearing dockets.** MFDR Form 19 hearings shall be scheduled initially on an administrative docket to determine the payment status of the disputed medical fee charges. If the charges are not paid before the administrative hearing or the parties are unable to resolve the dispute at the administrative hearing, the dispute shall be set on the assigned administrative law judge's hearing docket.

(8) **Appearances.** Appearances at the administrative docket and before the administrative law judge or Commission are governed by 810:10-1-9.

(9) **Mediation.** Nothing in this Subchapter is intended to preclude resolution of medical fee disputes by mediation or agreement of the parties, as appropriate.