

Judge James J. Booker, Commissioner
J. Randolph Ward, Commissioner
Bernadine Ballance, Commissioner
Dianne C. Sellers, Commissioner

James B. Hunt Jr., Governor
J. Howard Bunn Jr., Chairman
Thomas J. Bolch, Commissioner
Coy M. Vance, Commissioner

North Carolina Industrial Commission

Dobbs Building • 430 N. Salisbury Street•Raleigh, North Carolina 27611 AREA CODE 919

Administration 733-1949	Commissioners 733-4820	Dockets 733-5076	Medical Fees 733-5055	Rehabilitation 733-3201	
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January 9, 1995

TO: Insurance Carriers, Self-Insurance Administrators, Third Party Administrators, Health Care Providers and other interested parties

FROM: The North Carolina Industrial Commission

SUBJECT: Carrier/TPA/Self-Insurance Administrator Application of NC Industrial Commission Medical Fee Schedule

Beginning February 15, 1995, permission is hereby granted to those institutions responsible for paying **medical bills** in Workers' Compensation claims under the North Carolina Workers' Compensation Act to calculate those **medical bills** pursuant to the approved medical fee schedule of the North Carolina Industrial Commission, as the same may be changed from time to time.

The Commission recognizes that there will need to be changes and modifications to this change in administration of the Medical Fee Schedule and it earnestly solicits your constructive comments. Please send them in writing to the attention of Commissioner Thomas J. Bolch at the above address.

The Commission periodically will publish reports concerning the efforts of firms handling medical bills under this Rule to monitor them for duplication, relatedness to the injury, redundancy, and unbundling, and their accuracy in applying the Commission's Medical Fee Schedule.

Those Payors desiring that the Industrial Commission continue to approve their bills in accordance with the fee schedule are free to continue submitting their bills to the Commission for approval. However, it is anticipated that the larger Insurance Carriers,

Self-Insurance Administrators and Third Party Administrators will process their own medical bills.

Hospital bills, including but not limited to “medical only” hospital bills, are not included at this time among those bills being turned over to carriers, self-insureds and third party administrators for calculation. **Such hospital bills** are subject to calculation in accordance with the State Health Plan, the hospital plan that is applicable to employees of the State of North Carolina. At the present time, hospital bills will be calculated by the Industrial Commission or its agent. At a future time, hospital bills may also be turned over to the carriers, self-insurance administrators and third party administrators for calculation pursuant to the Industrial Commission fee schedule.

Bills of medical providers submitted pursuant to contracts with managed care organizations are not subject to the Commission’s Medical Fee Schedule, pursuant to the provisions of the Workers Compensation Reform Act of 1994 [NC GS §97-26(c)].

Health care providers shall submit charges to the insurer, self-insurance administrator or third party administrator within 75 days of treatment, or if longer, within 30 days after the end of the month during which multiple treatments were provided, or within such other reasonable period of time as allowed by the Commission. If an insurer, self-insurance administrator or third party administrator disputes a portion of a health provider’s bill, it shall pay the uncontested portion of the bill and shall resolve disputes regarding the balance of the charges in accordance with the dispute resolution procedures outlined below.

Payors are required to maintain accurate records of their application of the Commission's fee schedule for a minimum period of two years for all bills and for the duration of any contest concerning any particular bill. These records shall include the bills submitted, the Bill Analysis, workpapers and any correspondence concerning any of these. These records shall include both human readable and machine readable records. That is to say if any portion of the bills submitted, the Bill Analysis, workpapers or correspondence exist in machine readable form, such machine readable form shall be maintained for the required period of time. The Commission will audit these records periodically for compliance with the Medical Fee Schedule. Results of the audit will be made public.

Carriers shall not charge against a case the amount of any overpayment determined by the Commission after audit. The overpayment shall also be deducted from the medical claims charges of the employer recorded for experience modification purposes.

Payors shall not charge against any specific case any fee for processing medical bills pursuant to the Commission’s Medical Fee Schedule. Such bill processing shall be absorbed in general overhead.

Payments remitted to Payees shall contain a statement that the bill has been recalculated in accordance with the Commission's fee schedule and shall include workpapers showing the recalculation. The following language shall also be included with the payment and workpapers:

This bill has been recalculated by the Payor in accordance with the Medical Fee Schedule of the North Carolina Industrial Commission. The Industrial Commission requires that questions and disputes concerning a particular Payor's application of the Commission's fee schedule are to be resolved between the Payor and the Payee in the first instance. If not capable of resolution between the Payor and the Payee, they are to be referred by the Payee to the Medical Fees Section of the Industrial Commission at (919) 733-5055. In resolving disputes, the Medical Fees Section will confer with its medical consultant and, if necessary, the Medical Advisory Committee of the North Carolina Industrial Commission. If not capable of resolution at this level, bill disputes are subject to resolution by a formal hearing by the filing of a Form 33, Request that Claim be Assigned for Hearing.

If any bill for services rendered under GS §97-25 by any provider of health care is not paid within 60 days after its receipt by the Payor responsible for direct reimbursement pursuant to GS §97-26(g), there may be added to such unpaid bill an amount equal to ten per cent (10%) thereof [pursuant to GS §97-18(g)], which may be paid at the same time as, but in addition to, such medical bill. **If the Payor disputes the 10% penalty it shall nonetheless pay the remainder of the bill forthwith, and the provider can request a hearing by filing a Form 33.**

It is a criminal offense to bill any person for the difference in the amount of the medical bill and the bill as reduced in accordance with the Medical Fee Schedule. GS §97-90(b).

If you have any question regarding this analysis, please call (processor) _____ at (number) _____ or send your bill and the analysis to: (Name, Address and Fax Number of Processor).

Payors shall pay providers only the amount authorized by the fee schedule. The amount, timeliness and scrutiny of bills shall not be altered or affected in any way by any legal dispute in the case, the provider's role in the case, opinions of any provider expressed concerning the case, or the party who selected the provider.

Copies of the Commission's fee schedule (both in printed form and in magnetic media) are available for a nominal fee by contacting the Commission at (919) 733-5055.

Items that are not defined by the Commission's fee schedule (in the past, handled as "By Reports") should be referred to B.J. Moore, the Commission's Chief Medical Fee Examiner and she will cause those to be calculated in accordance with Commission policy. "By Report" bills will be returned to the insurance carrier or self-insurer and not to a third party processing bills.

Those entities processing medical bills are required to file with the Industrial Commission a completed NCIC Form No. 51 by July 30 of each year. A copy of this form is attached. Additional copies of this form may be obtained by calling (919) 733-1951.

In performing bill analysis, a carrier or self-insured may change a CPT code if it appears to be incorrect, **but only after discussing the proposed change with the provider and only after obtaining agreement of the provider that it can be changed.** The Bill Analysis shall clearly show that the CPT code was changed and shall state the reason for the change. If the provider refuses to agree to the proposed change, the dispute shall be resolved in accordance with the dispute resolution procedure outlined above.

BEFORE processing medical bills pursuant to this directive, the carrier, self-insurance administrator or third party administrator shall notify the Commission's Chief Medical Fee Examiner by letter of intent to do so, with start date, address, phone and fax numbers and carrier code number.

By order of the Commission.



J. Howard Bunn, Jr.
Chairman



James J. Booker
Commissioner

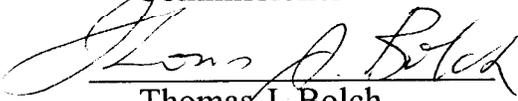


J. Randolph Ward
Commissioner



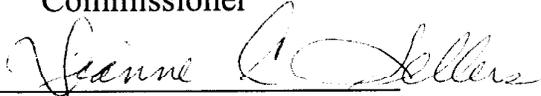
Bernadine S. Ballance

Commissioner



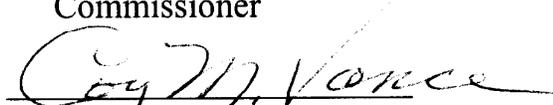
Thomas J. Bolch

Commissioner



Dianne C. Sellers

Commissioner



Coy M. Vance

Commissioner

RULE 404A

TRIAL RETURN TO WORK

(1) Except as provided in subparagraph (7), when compensation for total disability being paid pursuant to G. S. 97-29 is terminated because the employee has returned to work for the same or a different employer, such termination is subject to the provisions of G.S. 97-32.1-Trial Return to Work. When compensation is terminated under these circumstances, the employer/carrier shall file Industrial Commission Form 28R and serve a copy of that Form on the employee and the employee's attorney of record, if any.

(2) If during the trial return to work period, the employee must stop working due to the injury for which compensation had been paid, the employee shall complete and file Industrial Commission Form 28E and serve a copy of the completed Form on the employer/carrier. The Form shall contain a section which must be completed by the employee's authorized treating physician certifying that the employee's injury for which compensation had been paid prevents the employee from continuing the trial return to work. If the employee returned to work with an employer other than the employer and the time of injury, the employee must complete the Release and Request For Employment Information section of IC Form 28E.

(3) Upon receipt of a properly completed Form 28E, the employer/carrier shall forthwith resume payment of compensation for total disability. If the employee fails to provide the required certification of the authorized treating physician or to execute the Release and Request section of the Form 28E if required the employer/carrier shall not be required to resume payment of compensation. Instead, in such circumstances, the employer/carrier shall return the Form 28E to the employee along with a statement explaining why the Form is being returned and why compensation is not being reinstated. A copy of this explanation shall be sent to the employee's attorney of record, if any.

(4) The reinstated compensation shall be due and payable on the date and for the period commencing on the date the employer/carrier receives a properly completed Form 28E certifying an unsuccessful return to work. Such resumption of compensation shall not preclude the employee's right to seek, or the employer's right to contest, the payment of compensation for the period prior or subsequent to such reinstatement. If it is thereafter determined that any temporary total or temporary partial compensation including the reinstated compensation, was not due and payable, a credit shall be given against any other compensation determined to be owed.

(5) When the employer/carrier has received a properly completed Form 28E and wishes to contest the employee's right to reinstatement of total disability compensation, it may suspend or terminate compensation only as provided only as provided in G.S. 97-18.1 and/or pursuant to the provisions of G.S. 97-83 and G.S. 97-84.

(6) Upon resumption of payment of compensation for total disability, the employer/carrier shall complete Industrial Commission Form 62 and/or such other forms as may be required by the Act or by Commission rule.

(7) The trial return to work provisions do not apply to the following:

(a) "Medical only" cases, defined as cases in which the employee is absent from work more than one (1) day and in which medical expenses are less than the amount periodically established by the Commission in its Minutes;

(b) Cases in which the employee has missed fewer than eight (8) days from work.

(c) Cases wherein the employee has been released to return to work by the authorized treating physician without restriction or limitation except that if the authorized treating physician, within 45 days of the employees return to work date, determines that the employee is not able to perform the job duties assigned , then the employer must reume benefits . If within the same time period, the treating physician determines that the employee may work only with restrictions, then the employee is entitled to a resumption of benefits commencing as of the date of the report, unless the employer is able to offer employment consistent with the restrictions , in which case a trial return to work period shall be deemed to have commenced at the time of the employee's intial return to work; and

(d) Cases wherein the employee has accepted or agreed to accept compensation for permanent partial disability pursuant to G. S. 97-31, unless the trial return to work follows reinstatement of compensation for total disability under G.S. 97-29.