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North Carolina Industrial Commission

September 2, 2016

NOTICE OF PUBLIC COMMENT MEETING

The North Carolina Industrial Commission will hold a non-mandatory public comment meeting at 1:00 p.m. on October 3, 2016, in Room 3099, Third Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, NC 27603, to take public comment on and consider rulemaking options to address the effects of the August 9, 2016 court decision invalidating the April 1, 2015 medical fee schedule provisions for ambulatory surgery centers. Please click [here](#) to read the August 9, 2016 court decision.

To obtain baseline information for comparison and useful benchmarks, the Commission has requested from the North Carolina Rate Bureau (NCRB) and the National Council on Compensation Insurance (NCCI) cost analyses for the application of the following hypothetical fee schedule rates to charges for institutional services provided by ambulatory surgery centers in workers' compensation cases:

- Maximum reimbursement rate of 200 percent of the Medicare payment amount for institutional services provided by ambulatory surgery centers.
- Maximum reimbursement rate of 200 percent of the Medicare payment amount for institutional services provided by outpatient hospitals.
- Maximum reimbursement rate of 150 percent of the Medicare payment amount for institutional services provided by ambulatory surgery centers.
- Maximum reimbursement rate of 100 percent of the Medicare payment amount for institutional services provided by outpatient hospitals.

The cost analyses will apply the above hypothetical fee schedule rates to the 2016 Medicare payment amounts allowed for institutional services provided by ambulatory surgery centers and the 2016 Medicare payment amounts allowed for hospital outpatient institutional services, respectively. The payment amounts will be determined by using the final rule for the Medicare hospital outpatient prospective payment system and the Medicare ambulatory surgical center payment system for CY 2016, as published in the Federal Register. The period of medical cost data used in the analyses will be from dates of services January 1 to December 31, 2015, and the source of the medical cost data is based on NCCI's Medical Data Call for North Carolina for Service Year 2015.

NCCI and NCRB estimate that they can provide the cost analyses by September 19, 2016. Upon receipt, the Commission will publish the analyses on its website at www.ic.nc.gov/abtrules.html for use by the public in formulating any comments or proposals prior to or following the public comment meeting.

Public Comment Deadlines related to the October 3, 2016 public comment meeting:

1. Any proposals to amend the North Carolina workers' compensation medical fee schedule (Rules 04 NCAC 10J .0101, .0102, and .0103) with an earliest effective date on or about January 1, 2017, to address the effects of the August 9, 2016 court decision must be presented to the Commission no later than September 26, 2016. The proposals will be published on the Commission's website within two business days of the deadline at www.ic.nc.gov/abtrules.html.

Such proposals shall be in writing, filed with the IC Rulemaking Coordinator Kendall Bourdon at kendall.bourdon@ic.nc.gov, and shall include at a minimum:

- a. The person or entity making the proposal with contact information;
- b. The text of a proposed rule(s) or rule amendment(s), to include any proposed maximum allowable amounts for specific DRG, CPT, or revenue codes;
- c. A detailed explanation of the proposal which shows how the proposed rule(s) or amendment(s) achieves the statutory requirements of ensuring the following:
 - i. injured workers are provided the services and standard of care required by the Workers' Compensation Act,
 - ii. providers are reimbursed reasonable fees for providing these services, and
 - iii. medical costs in workers' compensation claims are adequately contained.

The explanation should include an analysis of the impact of the proposal on the proponent and the workers' compensation system. The analysis should make use of the baseline comparisons and benchmarks to be provided by NCCI and NCRB, as well as any other well-documented data and information proponent wishes to present to the Commission in support of its proposal; and

- d. Any other written information or data and supporting documentation the proponent wishes the Commission to consider.
2. Any person wishing to address oral comments to the Commission at the public comment meeting on October 3, 2016, shall sign up to do so by 5:00 p.m. on September 30, 2016, by contacting IC Rulemaking Coordinator Kendall Bourdon at (919) 807-2644 or kendall.bourdon@ic.nc.gov. Oral comments addressed to the Commission shall be limited to 10 minutes per speaker.
 3. Any person or entity wishing to present written comments and other documentation to the Commission in response to a proposal submitted pursuant to 1. above shall file the comments and corresponding documentation with IC Rulemaking Coordinator Kendall Bourdon at kendall.bourdon@ic.nc.gov no later than October 10, 2016. These responses will be published on the Commission's website within two business days of the deadline at www.ic.nc.gov/abtrules.html.

For additional information or for questions, you may contact Rulemaking Coordinator Kendall Bourdon at (919) 807-2644 or kendall.bourdon@ic.nc.gov or Executive Secretary Meredith Henderson at (919) 807-2575 or meredith.henderson@ic.nc.gov.