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An Act Regarding Payment of Medical Fees in the Workers' Compensation System

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 39-A MRSA §206, sub-§14, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

14. Employer not liable. An employer is not liable under this Act for charges for health care services to an injured employee in excess of those established under section ~~209209#A~~, except upon petition as provided. The board shall allow charges in excess of those provided under section ~~209209#A~~ against the employer if the provider satisfactorily demonstrates to the board that the services were extraordinary or that the provider incurred extraordinary costs in treating the employee as compared to those reasonably contemplated for the services provided.

Sec. 2. 39-A MRSA §208, sub-§2, ¶E, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

E. A health care provider may not charge the insurer or self-insurer an amount in excess of the fees prescribed in section ~~209209#A~~ for the submission of reports prescribed by this section and for the submission of any additional records.

Sec. 3. 39-A MRSA §209, as amended by PL 2007, c. 240, Pt. JJJ, §5 and c. 311, §2, is repealed.

Sec. 4. 39-A MRSA §209-A is enacted to read:

§ 209-A. Medical fee schedule

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Ancillary services and products" means those services and products that are necessary but peripheral to the medical procedure.

B. "Medical fee schedule" means a list of medical procedures and the medical codes used and fees charged for those medical procedures.

2. Medical fee schedule. In order to ensure appropriate limitations on the cost of health care services while maintaining broad access for employees to health care providers in the State, the board shall adopt rules that establish a medical fee schedule setting the fees for medical and ancillary services and products rendered by individual health care practitioners and health care facilities in accordance with the following:

A. The medical fee schedule for services rendered by individual health care practitioners must reflect the methodology underlying the federal Centers for Medicare and Medicaid Services resource-based relative value scale;

B. The medical fee schedule for services rendered by health care facilities must reflect the methodology and categories set forth in the federal Centers for Medicare and Medicaid Services severity-diagnosis related group system for inpatient services and the methodologies and categories set forth in the federal Centers for Medicare and Medicaid Services ambulatory payment classification system for outpatient services; and

C. The medical fee schedule must be consistent with the most current medical coding and billing systems, including the federal Centers for Medicare and Medicaid Services resource-based relative value scale, severity-diagnosis related group system, ambulatory payment classification system and healthcare common procedure coding system; the International Statistical Classification of Diseases and Related Health Problems report issued by the World Health Organization and the current procedural terminology codes used by the American Medical Association.

3. Annual updates. Notwithstanding Title 5, chapter 375, subchapter 2, the executive director of the board shall annually update the medical fee schedule developed pursuant to subsection 2. In order to facilitate the update, the executive director annually shall obtain from the Maine Health Data Organization the average total payments, including professional, facility, ancillary and patient cost-sharing contribution, across all providers in the Maine Health Data Organization database for the medical and ancillary services and products most commonly rendered during the immediately preceding calendar year under this Part.

4. Reimbursement rate if medical fee schedule not established or updated. If the board fails to adopt rules that establish a medical fee schedule in accordance with subsection 2 by December 31, 2011 or the executive director fails to annually update the medical fee schedule in accordance with subsection 3, the reimbursement rate for medical services is 105% of the private 3rd-party payor average payment rate for the provider or the amount agreed to in writing by the provider and the insurance company or self-insured employer prior to the rendering of service by the provider. For purposes of this subsection, "reimbursement rate for medical services" means the total payment allowed for the medical and ancillary services and products, including any amount to be paid by a 3rd-party payor and the amount to be paid by the patient to satisfy a copayment, deductible or coinsurance obligation.

5. Periodic updates to the medical fee schedule. In addition to the annual updates to the medical fee schedule required by subsection 3, the board shall undertake a comprehensive review of the medical fee schedule once every 3 years beginning in 2014. The board shall consider the following factors in setting or revising the medical fee schedule as required by this section:

A. The private 3rd-party payor average payment rates obtained from the Maine Health Data Organization pursuant to subsection 3;

B. Any material administrative burden imposed on providers by the nature of the workers' compensation system; and

C. The goal of maintaining broad access for employees to all individual health care practitioners and health care facilities in the State.

6. Associated services fee schedule. The board shall adopt rules that establish a fee schedule or other standards of reimbursement for providers regarding administrative, case management, medical and legal and other activities unique to the treatment of injured workers in the workers' compensation system.

7. MaineCare reimbursement. MaineCare must be paid 100% of any expenses incurred for the treatment of an injury of an employee under this Title.

Sec. 5. Rulemaking; report to Legislature. The Workers' Compensation Board shall adopt rules to establish a medical fee schedule addressing services provided by both individual health care practitioners and health care facilities no later than December 31, 2011. Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2#A. The executive director of the board shall report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development on the establishment of the medical fee schedule required by Title 39#A, section 209#A no later than February 15, 2012.

Effective 90 days following adjournment of the 125th
Legislature, First Regular Session, unless otherwise indicated.