



INFORMATIONAL MEMORANDUM

OIR-12-02M

ISSUED

May 4, 2012

Florida Office of Insurance Regulation

Kevin M. McCarty, Commissioner

To Motor Vehicle Insurers in the State of Florida

The purpose of this memorandum is to assist insurers with the filings necessary to implement the notice requirement in Section 627.736(5)(a)5., Florida Statutes, resulting from the passage of House Bill 119. Among the various provisions of this legislation is a new statutory requirement that insurers provide a notice of the schedule of medical charges or "fee schedule" to insureds if the insurer is limiting reimbursement. The Office of Insurance Regulation (Office) has analyzed the revisions and is sending the attached sample endorsement language for inclusion of the schedule of charges specified in Section 627.736(5)(a), Florida Statutes. (Attachment "A")

Insurers are not required to use the attached sample language. Insurers may file and propose policy language as an alternative to the attached sample language. The Office will commit to review filings submitted for this purpose on an expedited basis provided that the insurer has only submitted one endorsement in the filing and that one endorsement only contains language to implement the notice requirement. All form filings are subject to the standard form review process of Section 627.410, Florida Statutes.

It should be noted that the fee schedule in the sample language is the fee schedule that is effective at the time that the notice requirement is established in Florida Statutes (July 1, 2012). It does not include the revisions in House Bill 119 to the fee schedule that become effective on January 1, 2013.

Depending upon the existing policy language, the sample language may be suitable to address the notice requirement of House Bill 119 or the insurer may already have approved language that satisfies the notice requirement. Ultimately, it is the insurer's responsibility to develop its own language after researching the law, reviewing its contract forms, and conferring with its legal staff.

If you have any questions regarding the contents of this Memorandum, please contact Sandra Starnes, Director of Property and Casualty Product Review, Florida Office of Insurance Regulation at Sandra.Starnes@flor.com or (850) 413-5344.

SAMPLE FEE SCHEDULE ENDORSEMENT

Use of Medical Fee Schedule for Personal Injury Protection Claims*

[The insurer] will limit reimbursement of medical expenses to 80 percent of a properly billed reasonable charge, but in no event will [the insurer] pay more than 80 percent of the following schedule of maximum charges:

- a. For emergency transport and treatment by providers licensed under Chapter 401, Florida Statutes, 200 percent of Medicare.
- b. For emergency services and care provided by a hospital licensed under Chapter 395, Florida Statutes, 75 percent of the hospital's usual and customary charges.
- c. For emergency services and care as defined by s. 395.002(9), Florida Statutes, provided in a facility licensed under Chapter 395, Florida Statutes, rendered by a physician or dentist, and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community.
- d. For hospital inpatient services, other than emergency services and care, 200 percent of the Medicare Part A prospective payment applicable to the specific hospital providing the inpatient services.
- e. For hospital outpatient services, other than emergency services and care, 200 percent of the Medicare Part A Ambulatory Payment Classification for the specific hospital providing the outpatient services.
- f. For all other medical services, supplies, and care, 200 percent of the allowable amount under the participating physicians schedule of Medicare Part B. However, if such services, supplies, or care is not reimbursable under Medicare Part B, [the insurer] will limit reimbursement to 80 percent of the maximum reimbursable allowance under workers' compensation, as determined under s. 440.13, Florida Statutes, and rules adopted thereunder which are in effect at the time such services, supplies, or care is provided. Services, supplies, or care that is not reimbursable under Medicare or workers' compensation will not be reimbursed by [the insurer].

For purposes of the above, the applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect at the time the services, supplies, or care was rendered and for the area in which such services were rendered, except that it will not be less than the allowable amount under the participating physicians schedule of Medicare Part B for 2007 for medical services, supplies, and care subject to Medicare Part B.

***Depending upon the existing policy language and case by case filing details, the above language may be suitable to address the notice payee requirement of HB 119. Ultimately, it is the insurer's responsibility to develop its own language after researching the law, reviewing its contract forms, and conferring with its own legal staff.**