

[50 N.J.R. 1280\(a\)](#)

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RULE ADOPTIONS

Reporter

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Agency

LABOR AND WORKFORCE DEVELOPMENT > DIVISION OF WORKERS' COMPENSATION

Administrative Code Citation

Adopted New Rule: [N.J.A.C. 12:235-1.9](#)

Text

Electronic Medical Bills for Workers' Compensation Claims

Proposed: October 16, 2017, at [49 N.J.R. 3419\(a\)](#).

Adopted: April 19, 2018, by Robert Asaro-Angelo, Acting Commissioner, Department of Labor and Workforce Development.

Filed: April 19, 2018, as R.2018 d.112, **with non-substantial changes** not requiring additional public notice or comment (see [N.J.A.C. 1:30-6.3](#)).

Authority: [N.J.S.A. 34:15-144](#).

Effective Date: May 21, 2018.

Expiration Date: June 26, 2020.

Summary of Hearing Officer's Recommendations and Agency's Response:

A public hearing regarding the proposed new rule was held on November 14, 2017, at the Department of Labor and Workforce Development. David Fish, Executive Director, Legal and Regulatory Services, was available to preside at the public hearing and to receive testimony. No one testified at the public hearing. Written comments were submitted directly to the Office of Legal and Regulatory Services. After reviewing the written comments, the hearing officer recommended that the Department proceed with the new rules with non-substantial changes not requiring additional public notice or comment (see [N.J.A.C. 1:30-6.3](#)).

Summary of Public Comments and Agency Responses:

Written comments were submitted by the following individuals. The number(s) in parentheses after each comment identifies the respective commenter(s) listed below.

1. Mishael Azam, COO and Senior Manager, Legislative Affairs, Medical Society of New Jersey, Lawrenceville, NJ.
2. Adam Fowler, Sr. Legislative & Regulatory Specialist, Optum Workers' Compensation and Auto No-Fault (no address provided).
3. Lee Ann C. Stembler, President & CEO, National Council for Prescription Drug Programs, Scottsdale, AZ.
4. Deborah A. Wean, Esq., CPCU, Secretary, New Jersey Manufacturers Insurance Company, West Trenton, NJ.
5. Tina Greene, Mitchell International, Inc., San Diego, CA.

1. COMMENT: The commenter seeks an amendment to the proposed new rule that would reflect the statutory exemptions from the electronic medical bill submission mandate at [N.J.S.A. 34:15-143](#) et seq. (Act). Specifically, [N.J.S.A. 34:15-146](#) (P.L. 2016, c. 64, Section 4), states that the requirements of the Act shall not apply to any provider that: (a) submits less than 25 medical bills per month to employers, workers' compensation insurance carriers, or the workers' compensation third-party administrators; (b) furnishes services only outside of the United States; (c) experiences a disruption in electricity and communication connections that are beyond its control; or (d) demonstrates that a specific and unusual circumstance exists that precludes submission of electronic bills. (1)

RESPONSE: Notwithstanding that the new rule as proposed, specifically at [N.J.A.C. 12:235-1.9\(a\)](#), already states that the requirements set forth therein apply to all workers' compensation healthcare providers, their billing representative, or any company that has purchased the rights to pursue their bill, "with the exception of those set forth at [N.J.S.A. 34:15-146](#)," the Department will, on adoption, as suggested by the commenter, eliminate the cross-reference to the statute and replace it with a cross-reference to a new subsection (g), which will list verbatim the exceptions set forth at [N.J.S.A. 34:15-146](#).

[page=1281] 2. COMMENT: The commenters express concern at the "brevity of the proposed rule." They concede that the "ASC X12 837 is the national standard used for medical billing," but add that "it has multiple formats to support billing by professional, institutional and dental providers and is available in multiple versions of which version 5010 is adopted under HIPAA." They state that "it [ASC X12 837] is not ... the only standard used or needed to properly bill and process bills electronically." They state that "[o]mitted from the proposed rule is reference to billing standards for pharmacy--which include the National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Version D.0 and Batch Standard version 1.2 currently adopted under HIPAA." They state that "[a]lso omitted from the proposed rule are other transactions involved in the electronic billing process such as acknowledgments and remittance advice, both of which are addressed in the enabling statute." The commenters assert that "[i]f as stated in the rule, use of the ASC X12 837 is applied to 'all workers' compensation healthcare providers,' pharmacies will be faced with an unfeasible billing requirement which would require special programming for both providers and payers, causing delays in the provision of medications and payments instead of their usual real-time processing." The commenters recommend that the Department "consult with the International Association of Industrial Accident Boards and Commissions (IAIABC), specifically the IAIABC Medical Pro-Pay Committee, on how to incorporate the IAIABC model electronic rule and companion guide into the New Jersey workers' compensation requirements," adding, "[t]he IAIABC has worked with ASC X12 and NCPDP in creating their comprehensive model rule and companion guide specifically for ease-of-use by workers' compensation agencies seeking to adopt an electronic billing and processing framework in their jurisdictions." (2, 3, and 5)

RESPONSE: The Division of Workers' Compensation, within the Department of Labor and Workforce Development, is tasked by statute with adjudicating contested workers' compensation claims. Those who work within the Division are Judges of Compensation and related administrative staff (that is, lawyers and clerical/administrative personnel; not doctors or nurses). Judges of Compensation preside over contested workers' compensation claims, taking evidence and making determinations as to compensability. Administrative staff support the judges in this effort. Prior to the passage of P.L. 2016, c. 64, no one within the Division of Workers' Compensation (or the Department of

Labor and Workforce Development) has overseen, nor has anyone been involved in any way, with the mechanics of medical bill submission, electronic or otherwise. The Department takes the commenters at their word that the IAIABC model rule and companion guide are "intended" for ease-of-use by workers' compensation agencies. However, easy to use they are not. For example, the following is an excerpt from the IAIABC model rule:

Section 4. Billing Code Sets

Billing codes and modifier systems identified below are valid codes for the specified workers' compensation transactions, in addition to any code sets defined by the standards adopted in Section 3:

- A. "CDT-4 Codes"--codes and nomenclature prescribed by the American Dental Association.
- B. "CPT-4 Codes--the procedural terminology and codes contained in the "Current Procedural Terminology, Fourth Edition," as published by the American Medical Association and as adopted in the appropriate fee schedule contained in (insert relevant jurisdiction statute or rule citation).
- C. "Diagnosis Related Group (DRG)"--the inpatient classification scheme used by CMS for hospital inpatient reimbursement. The DRG system classifies patients based on principal diagnosis, surgical procedure, age, presence of co-morbidities and complications, and other pertinent data.
- D. "HCPCS"--CMS' Healthcare Common Procedure Coding System, a coding system which describes products, supplies, procedures and health professional services and which includes the American Medical Association's (AMA's) Physician "Current Procedural Terminology, Fourth Edition," (CPT-4) codes, alphanumeric codes, and related modifiers.
- E. "ICD-9 CM Codes"--diagnosis and procedure codes in the International Classification of Diseases, Ninth Revision, Clinical Modification published by the United States Department of Health and Human Services.

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Drafting Note: Special or additional codes in use for the jurisdiction's workers' compensation fee schedule should be referenced here. (Jurisdictions should consider jurisdiction-specific medical billing code issues prior to selecting language).

It is the Department's position that adoption of the ANSI X12 837 National Standard will suffice as a minimum guideline for submission of electronic medical bills in workers' compensation. To the degree that there are enhanced industry standards, those impacted by the Act and the implementing rules are free to utilize those enhanced standards. However, the enhanced standards will not be enforced by the Division of Workers' Compensation.

3. COMMENT: The commenter writes to offer her support of the new regulation and her belief that it will increase efficiency in the workers' compensation system. (4)

RESPONSE: The Department thanks the commenter for her support.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule is not subject to any Federal standards or requirements. Specifically, the subject matter of the adopted new rule is governed by State workers' compensation laws, [N.J.S.A. 34:15-1](#) et seq.

Regulations

Full text of the adopted new rule follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

12:235-1.9 Electronic medical bills for workers' compensation claims

(a) All workers' compensation healthcare providers, their billing representative, or any company that has purchased the right to pursue their bill, with the exception of those set forth **[at N.J.S.A. 34:15-146]** ***under (g) below***, shall submit complete electronic medical bills for payment using the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 837 National Standard.

(b) Employers, workers' compensation insurance carriers of employers, or workers' compensation third-party administrators shall accept electronic medical bills submitted for the payment of medical services under (a) above.

(c) Medical information submitted on electronic medical bills for payment of medical services shall be confidential, pursuant to the "Workers' Compensation Medical Information Confidentiality Act," sections 5 through 9 of P.L. 2001, c. 326 (*N.J.S.A. 34:15-128.1* et seq.).

(d) Employers, workers' compensation insurance carriers of employers, or workers' compensation third-party administrators shall acknowledge receipt of a complete electronic medical bill to the party that sent the complete electronic medical bill under (a) above.

(e) Payment for a complete electronic medical bill deemed by the employer, workers' compensation insurance carrier, or the workers' compensation third-party administrator to be compensable shall be paid within 60 days or less.

(f) Employers, workers' compensation insurance carriers for the employer, and their third-party administrators may exchange electronic data and establish payment deadlines through PPO or IPA contracts or agreements with health care providers or their billing representatives in a non-prescribed format or timeline, independent of the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 837 National Standard.

*** (g) This section shall not apply to any of the following providers:**

1. One who submits less than 25 medical bills per month to employers, workers' compensation insurance carriers, or the workers' compensation third-party administrators;

2. One who furnishes services only outside of the United States;

3. One who experiences a disruption in electricity and communication connections that are beyond its control; or

[page=1282] **4. One who demonstrates that a specific and unusual circumstance exists that precludes submission of electronic bills.***