

Regulations@wcb.ny.gov

Workers Compensation Board
328 State Street
Schenectady, NY 12305-2318

Re: Public Comment on Revised Rule Making, Medical Fee Schedules, I.D. No. WCB-23-18-00005-RP

Dear Sir or Madam:

NYPTA supports the Board's efforts to improve access to physical therapy services by increasing payment for physical therapy services and providing some relief from the relative value unit caps; however, we respectfully request a further revision to the physical medicine ground rules to permit access to medically necessary care for conditions and injuries which fall outside of the medical treatment guidelines, or which occur in the no fault insurance setting.

NYPTA submitted comments to the initial Notice of Rule Making, which are attached to this letter. As stated in that letter, we supported the proposed rate increase for physical therapy services but opposed the continuation of the current RVU caps as those caps have a deleterious impact on access to physical therapy services. In response to that comment and that of others, the Board revised the proposed fee schedule to increase the RVU caps, which we greatly appreciate and support.

The revised fee schedule, however, eliminates the exception or override of the limits contained in the Physical Medicine Utilization Section of the Physical Medicine Ground Rules. We believe that change will have a significant negative impact on the ability of injured workers and car accident victims to receive medically necessary care. That said, we recognize that the 12 visit/180 day limit is sufficient for most episodes of care. We also recognize that the 12 visit/180 day limit does not apply if a medical treatment guideline recommends a higher level of utilization. Additionally, we understand that the 12 visit/180 day limit may be upwardly adjusted through the variance process.

Our concern lies with the application of the 12 visit/180 day limit to those conditions and injuries for which a medical treatment guideline does not exist, and to injuries resulting from car accidents (no fault insurance). In those settings, it is our understanding that the measures which allow exceptions to the limits (variance request, higher utilization level established by a medical treatment guideline) do not apply. As a result, the limit is rigid and unmovable.

The 12 visit/180 day limit is insufficient for certain conditions and injuries which are currently not covered by a medical treatment guideline. For example, traumatic brain injuries and concussions can require continuous or intermittent episodes of care lasting well over one year, and sometimes longer. The proposed change would severely impact the current standard of care that exists for this population. Additionally, many factors impact duration of care – severity of injury, pain tolerance, patient health, co-morbidities, age and the healing process – all of which may trigger a longer

episode of care than the norm. For no fault injuries, no mechanism exists in the proposed ground rules to continue medically necessary care when needed. Car accidents frequently lead to multiple and severe injuries that require extensive episodes of physical therapy care (well beyond 12 visits).

Virtually all health care utilization systems recognize the idiosyncratic nature of physical therapy care and health care more generally by permitting exceptions to utilization limits. Indeed, the current ground rules for physical medicine and the variance process function as exceptions and fulfill the need for such mechanisms. In keeping with that principle, we respectfully request that the current override of the limit be reinserted into the Physical Medicine Utilization section of the Ground Rules for purposes of injuries which are not covered by a medical treatment guideline and which occur in the no fault setting.

We therefore respectfully request that the language be amended to read as follows:

Physical medicine services may not exceed 12 sessions/visits per patient per accident or illness or be rendered more than 180 days from the first session/visit. For conditions, injuries or illnesses not covered by a medical treatment guideline, additional services in excess of 12 visits or 180 days may be authorized provided that the need for such additional services is documented through a prescriber's certification of medical necessity for continued treatment, progress notes and treatment plans. This documentation should be submitted to the insurance carrier as part of the claim. This section shall not apply to the no fault insurance system and injuries arising thereunder.

We also noted apparent technical errors in the proposed Ground Rules. The "per day" limit in Section 5 (Referral and Authorization) is not needed. Section 11, Multiple Physical Medicine Procedures and Modalities, has a typo in the third line "the patient is may not". Also in Section 11, we believe the code should be 97010 instead of 97101.

On behalf of the entire NYPTA membership, thank you again for your demonstrated willingness to listen to and thoughtfully regard the invaluable perspective of New York State's physical therapy providers. We strive to be a productive partner in establishing forward thinking health policy that is founded on evidenced based care that returns injured workers to health as quickly and efficiently as possible.

Sincerely,



PEGGY LYNAM, PT, DPT
NYPTA President