

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 4202

By: Schreiber

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to workers' compensation; amending
9 85A O.S. 2021, Section 50, which relates to fee
10 schedules; modifying reimbursement rate provision
11 regarding magnetic resonance imaging; and declaring
12 an emergency.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 85A O.S. 2021, Section 50, is
15 amended to read as follows:

16 Section 50. A. The employer shall promptly provide an injured
17 employee with medical, surgical, hospital, optometric, podiatric,
18 chiropractic and nursing services, along with any medicine,
19 crutches, ambulatory devices, artificial limbs, eyeglasses, contact
20 lenses, hearing aids, and other apparatus as may be reasonably
21 necessary in connection with the injury received by the employee.
22 The employer shall have the right to choose the treating physician
23 or chiropractor.

1 B. If the employer fails or neglects to provide medical
2 treatment within five (5) days after actual knowledge is received of
3 an injury, the injured employee may select a physician or
4 chiropractor to provide medical treatment at the expense of the
5 employer; provided, however, that the injured employee, or another
6 in the employee's behalf, may obtain emergency treatment at the
7 expense of the employer where such emergency treatment is not
8 provided by the employer.

9 C. Diagnostic tests shall not be repeated sooner than six (6)
10 months from the date of the test unless agreed to by the parties or
11 ordered by the Commission for good cause shown.

12 D. Unless recommended by the treating doctor or chiropractor at
13 the time claimant reaches maximum medical improvement or by an
14 independent medical examiner, continuing medical maintenance shall
15 not be awarded by the Commission. The employer or insurance carrier
16 shall not be responsible for continuing medical maintenance or pain
17 management treatment that is outside the parameters established by
18 the Physician Advisory Committee or ODG. The employer or insurance
19 carrier shall not be responsible for continuing medical maintenance
20 or pain management treatment not previously ordered by the
21 Commission or approved in advance by the employer or insurance
22 carrier.

23 E. An employee claiming or entitled to benefits under the
24 Administrative Workers' Compensation Act, shall, if ordered by the

1 Commission or requested by the employer or insurance carrier, submit
2 himself or herself for medical examination. If an employee refuses
3 to submit himself or herself to examination, his or her right to
4 prosecute any proceeding under the Administrative Workers'
5 Compensation Act shall be suspended, and no compensation shall be
6 payable for the period of such refusal.

7 F. For compensable injuries resulting in the use of a medical
8 device, ongoing service for the medical device shall be provided in
9 situations including, but not limited to, medical device battery
10 replacement, ongoing medication refills related to the medical
11 device, medical device repair, or medical device replacement.

12 G. The employer shall reimburse the employee for the actual
13 mileage in excess of twenty (20) miles round trip to and from the
14 employee's home to the location of a medical service provider for
15 all reasonable and necessary treatment, for an evaluation of an
16 independent medical examiner and for any evaluation made at the
17 request of the employer or insurance carrier. The rate of
18 reimbursement for such travel expense shall be the official
19 reimbursement rate as established by the State Travel Reimbursement
20 Act. In no event shall the reimbursement of travel for medical
21 treatment or evaluation exceed six hundred (600) miles round trip.

22 H. Fee Schedule.

23 1. The Commission shall conduct a review and update of the
24 Current Procedural Terminology (CPT) in the Fee Schedule every two

1 (2) years pursuant to the provisions of paragraph 14 of this
2 subsection. The Fee Schedule shall establish the maximum rates that
3 medical providers shall be reimbursed for medical care provided to
4 injured employees including, but not limited to, charges by
5 physicians, chiropractors, dentists, counselors, hospitals,
6 ambulatory and outpatient facilities, clinical laboratory services,
7 diagnostic testing services, and ambulance services, and charges for
8 durable medical equipment, prosthetics, orthotics, and supplies.
9 The most current Fee Schedule established by the Administrator of
10 the Workers' Compensation Court prior to February 1, 2014, shall
11 remain in effect, unless or until the Legislature approves the
12 Commission's proposed Fee Schedule.

13 2. Reimbursement for medical care shall be prescribed and
14 limited by the Fee Schedule. The director of the Employees Group
15 Insurance Division of the Office of Management and Enterprise
16 Services shall provide the Commission such information as may be
17 relevant for the development of the Fee Schedule. The Commission
18 shall develop the Fee Schedule in a manner in which quality of
19 medical care is assured and maintained for injured employees. The
20 Commission shall give due consideration to additional requirements
21 for physicians treating an injured worker under the Administrative
22 Workers' Compensation Act, including, but not limited to,
23 communication with claims representatives, case managers, attorneys,
24 and representatives of employers, and the additional time required

1 to complete forms for the Commission, insurance carriers, and
2 employers.

3 3. In making adjustments to the Fee Schedule, the Commission
4 shall use, as a benchmark, the reimbursement rate for each Current
5 Procedural Terminology (CPT) code provided for in the fee schedule
6 published by the Centers for Medicare and Medicaid Services of the
7 U.S. Department of Health and Human Services for use in Oklahoma
8 (Medicare Fee Schedule) on the effective date of this section,
9 workers' compensation fee schedules employed by neighboring states,
10 the latest edition of "Relative Values for Physicians" (RVP), usual,
11 customary and reasonable medical payments to workers' compensation
12 health care providers in the same trade area for comparable
13 treatment of a person with similar injuries, and all other data the
14 Commission deems relevant. For services not valued by CMS, the
15 Commission shall establish values based on the usual, customary and
16 reasonable medical payments to health care providers in the same
17 trade area for comparable treatment of a person with similar
18 injuries.

19 a. No reimbursement shall be allowed for any magnetic
20 resonance imaging (MRI) unless the MRI is provided by
21 an entity that meets Medicare requirements for the
22 payment of MRI services or is accredited by the
23 American College of Radiology, the Intersocietal
24 Accreditation Commission or the Joint Commission on

1 Accreditation of Healthcare Organizations. ~~For all~~
2 ~~other radiology procedures, the reimbursement rate~~
3 ~~shall be the lesser of the reimbursement rate allowed~~
4 ~~by the 2010 Oklahoma Fee Schedule and two hundred~~
5 ~~seven percent (207%) of the Medicare Fee Schedule.~~

6 b. For reimbursement of medical services for Evaluation
7 and Management of injured employees as defined in the
8 Fee Schedule adopted by the Commission, the
9 reimbursement rate shall not be less than one hundred
10 fifty percent (150%) of the Medicare Fee Schedule.

11 c. Any entity providing durable medical equipment,
12 prosthetics, orthotics or supplies shall be accredited
13 by a CMS-approved accreditation organization. If a
14 physician provides durable medical equipment,
15 prosthetics, orthotics, prescription drugs, or
16 supplies to a patient ancillary to the patient's
17 visit, reimbursement shall be no more than ten percent
18 (10%) above cost.

19 d. The Commission shall develop a reasonable stop-loss
20 provision of the Fee Schedule to provide for adequate
21 reimbursement for treatment for major burns, severe
22 head and neurological injuries, multiple system
23 injuries, and other catastrophic injuries requiring
24 extended periods of intensive care. An employer or

1 insurance carrier shall have the right to audit the
2 charges and question the reasonableness and necessity
3 of medical treatment contained in a bill for treatment
4 covered by the stop-loss provision.

5 4. The right to recover charges for every type of medical care
6 for injuries arising out of and in the course of covered employment
7 as defined in the Administrative Workers' Compensation Act shall lie
8 solely with the Commission. When a medical care provider has
9 brought a claim to the Commission to obtain payment for services, a
10 party who prevails in full on the claim shall be entitled to
11 reasonable attorney fees.

12 5. Nothing in this section shall prevent an employer, insurance
13 carrier, group self-insurance association, or certified workplace
14 medical plan from contracting with a provider of medical care for a
15 reimbursement rate that is greater than or less than limits
16 established by the Fee Schedule.

17 6. A treating physician may not charge more than Four Hundred
18 Dollars (\$400.00) per hour for preparation for or testimony at a
19 deposition or appearance before the Commission in connection with a
20 claim covered by the Administrative Workers' Compensation Act.

21 7. The Commission's review of medical and treatment charges
22 pursuant to this section shall be conducted pursuant to the Fee
23 Schedule in existence at the time the medical care or treatment was
24 provided. The judgment approving the medical and treatment charges

1 pursuant to this section shall be enforceable by the Commission in
2 the same manner as provided in the Administrative Workers'
3 Compensation Act for the enforcement of other compensation payments.

4 8. Charges for prescription drugs dispensed by a pharmacy shall
5 be limited to ninety percent (90%) of the average wholesale price of
6 the prescription, plus a dispensing fee of Five Dollars (\$5.00) per
7 prescription. "Average wholesale price" means the amount determined
8 from the latest publication designated by the Commission.

9 Physicians shall prescribe and pharmacies shall dispense generic
10 equivalent drugs when available. If the National Drug Code, or
11 "NDC", for the drug product dispensed is for a repackaged drug, then
12 the maximum reimbursement shall be the lesser of the original
13 labeler's NDC and the lowest-cost therapeutic equivalent drug
14 product. Compounded medications shall be billed by the compounding
15 pharmacy at the ingredient level, with each ingredient identified
16 using the applicable NDC of the drug product, and the corresponding
17 quantity. Ingredients with no NDC area are not separately
18 reimbursable. Payment shall be based on a sum of the allowable fee
19 for each ingredient plus a dispensing fee of Five Dollars (\$5.00)
20 per prescription.

21 9. When medical care includes prescription drugs dispensed by a
22 physician or other medical care provider and the NDC for the drug
23 product dispensed is for a repackaged drug, then the maximum
24 reimbursement shall be the lesser of the original labeler's NDC and

1 the lowest-cost therapeutic equivalent drug product. Payment shall
2 be based upon a sum of the allowable fee for each ingredient plus a
3 dispensing fee of Five Dollars (\$5.00) per prescription. Compounded
4 medications shall be billed by the compounding pharmacy.

5 10. Implantables are paid in addition to procedural
6 reimbursement paid for medical or surgical services. A
7 manufacturer's invoice for the actual cost to a physician, hospital
8 or other entity of an implantable device shall be adjusted by the
9 physician, hospital or other entity to reflect, at the time
10 implanted, all applicable discounts, rebates, considerations and
11 product replacement programs and shall be provided to the payer by
12 the physician or hospital as a condition of payment for the
13 implantable device. If the physician, or an entity in which the
14 physician has a financial interest other than an ownership interest
15 of less than five percent (5%) in a publically traded company,
16 provides implantable devices, this relationship shall be disclosed
17 to patient, employer, insurance company, third-party commission,
18 certified workplace medical plan, case managers, and attorneys
19 representing claimant and defendant. If the physician, or an entity
20 in which the physician has a financial interest other than an
21 ownership interest of less than five percent (5%) in a publicly
22 traded company, buys and resells implantable devices to a hospital
23 or another physician, the markup shall be limited to ten percent
24 (10%) above cost.

1 11. Payment for medical care as required by the Administrative
2 Workers' Compensation Act shall be due within forty-five (45) days
3 of the receipt by the employer or insurance carrier of a complete
4 and accurate invoice, unless the employer or insurance carrier has a
5 good-faith reason to request additional information about such
6 invoice. Thereafter, the Commission may assess a penalty up to
7 twenty-five percent (25%) for any amount due under the Fee Schedule
8 that remains unpaid on the finding by the Commission that no good-
9 faith reason existed for the delay in payment. If the Commission
10 finds a pattern of an employer or insurance carrier willfully and
11 knowingly delaying payments for medical care, the Commission may
12 assess a civil penalty of not more than Five Thousand Dollars
13 (\$5,000.00) per occurrence.

14 12. If an employee fails to appear for a scheduled appointment
15 with a physician or chiropractor, the employer or insurance company
16 shall pay to the physician or chiropractor a reasonable charge, to
17 be determined by the Commission, for the missed appointment. In the
18 absence of a good-faith reason for missing the appointment, the
19 Commission shall order the employee to reimburse the employer or
20 insurance company for the charge.

21 13. Physicians or chiropractors providing treatment under the
22 Administrative Workers' Compensation Act shall disclose under
23 penalty of perjury to the Commission, on a form prescribed by the
24 Commission, any ownership or interest in any health care facility,

1 business, or diagnostic center that is not the physician's or
2 chiropractor's primary place of business. The disclosure shall
3 include any employee leasing arrangement between the physician or
4 chiropractor and any health care facility that is not the
5 physician's or chiropractor's primary place of business. A
6 physician's or chiropractor's failure to disclose as required by
7 this section shall be grounds for the Commission to disqualify the
8 physician or chiropractor from providing treatment under the
9 Administrative Workers' Compensation Act.

10 14. a. Beginning on May 28, 2019, the Commission shall
11 conduct an evaluation of the Fee Schedule, which shall
12 include an update of the list of Current Procedural
13 Terminology (CPT) codes, a line item adjustment or
14 renewal of all rates, and amendment as needed to the
15 rules applicable to the Fee Schedule.

16 b. The Commission shall contract with an external
17 consultant with knowledge of workers' compensation fee
18 schedules to review regional and nationwide
19 comparisons of Oklahoma's Fee Schedule rates and date
20 and market for medical services. The consultant shall
21 receive written and oral comment from employers,
22 workers' compensation medical service and insurance
23 providers, self-insureds, group self-insurance
24 associations of this state and the public. The

1 consultant shall submit a report of its findings and a
2 proposed amended Fee Schedule to the Commission.

3 c. The Commission shall adopt the proposed amended Fee
4 Schedule in whole or in part and make any additional
5 updates or adjustments. The Commission shall submit a
6 proposed updated and adjusted Fee Schedule to the
7 President Pro Tempore of the Senate, the Speaker of
8 the House of Representatives and the Governor. The
9 proposed Fee Schedule shall become effective on July 1
10 following the legislative session, if approved by
11 Joint Resolution of the Legislature during the session
12 in which a proposed Fee Schedule is submitted.

13 d. Beginning on May 28, 2019, an external evaluation
14 shall be conducted and a proposed amended Fee Schedule
15 shall be submitted to the Legislature for approval
16 during the 2020 legislative session. Thereafter, an
17 external evaluation shall be conducted and a proposed
18 amended Fee Schedule shall be submitted to the
19 Legislature for approval every two (2) years.

20 I. Formulary. The Commission by rule shall adopt a closed
21 formulary. Rules adopted by the Commission shall allow an appeals
22 process for claims in which a treating doctor determines and
23 documents that a drug not included in the formulary is necessary to
24 treat an injured employee's compensable injury. The Commission by

1 rule shall require the use of generic pharmaceutical medications and
2 clinically appropriate over-the-counter alternatives to prescription
3 medications unless otherwise specified by the prescribing doctor, in
4 accordance with applicable state law.

5 SECTION 2. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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