

452 CMR 7.00: PRACTICES BY INSURERS

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7.01: SCOPE AND AUTHORITY

452 CMR 7.00 IS PROMULGATED PURSUANT TO M.G.L. C. 152, § 5 FOR THE PURPOSE OF CARRYING OUT THE APPLICABLE PROMSIONS OF M.G.L. C. 23E AND C. 152.

7.02: DEFINITIONS

REQUEST FOR REIMBURSEMENT, AS USED IN M.G.L. C. 152, §§ 13 AND 452 CMR 7.00, SHALL MEAN A REQUEST FOR PAYMENT OF HEALTH SERVICES PROVIDED PURSUANT TO M.G.L. C. 152, § 13 THAT

(A) IS SUBMITTED ON A STANDARD FORM PRESCRIBED BY THE DEPARTMENT BASED ON THE UNIVERSAL BILLING (UB) FORM AND HEALTH CARE FINANCING ADMINISTRATION (HCFA) FORM PURSUANT TO 452 CMR 6.05 *Information Reporting*;

(B) IS SIGNED BY THE PROVIDER, AS DEFINED IN 452 CMR 6.02 *Performing Such Service* (OR BY THAT PROVIDER'S AUTHORIZED REPRESENTATIVE OR SIGNATURE STAMP), AND A DETAILED DESCRIPTION OF THE SERVICE RENDERED, THE NAME AND LICENSURE NUMBER OF THE PROVIDER PERFORMING SUCH SERVICE, AS REQUIRED BY M.G.L. C. 152, § 13; WHERE THE REQUEST FOR REIMBURSEMENT IS FOR HOSPITAL OUTPATIENT SERVICES, INCLUDING BUT NOT LIMITED TO CLINICAL SERVICES, THE SIGNATURE, NAME, AND LICENSURE NUMBER OF THE PRACTITIONER ACTUALLY PERFORMING THE SERVICE SHALL BE PLACED ON THE DETAILED DESCRIPTION ACCOMPANYING THE REQUEST; AND

(C) CONTAINS, AT A MINIMUM, THE FOLLOWING:

1. EMPLOYEE NAME;
2. DATE OF INJURY;
3. DATE(S) OF SERVICE;
4. ITEMIZED SERVICES RENDERED;
5. WHERE APPLICABLE, INTERNATIONAL CLASSIFICATION OF DISEASES-9 (ICD-9 OR ICD-10) CODE(S), DIAGNOSIS CODE(S), CURRENT PROCEDURAL TERMINOLOGY (CPT) CODE(S), ADMINISTRATIVE AND ALL OTHER PROCEDURE CODE(S) PROMULGATED BY THE EXECUTIVE DEPARTMENT OF HEALTH AND HUMAN SERVICES;
6. IN THE CASE OF RESTORATIVE AND CHIROPRACTIC SERVICES, THE APPLICABLE CURRENT PROCEDURAL TERMINOLOGY (CPT) CODE(S) FOR UTILIZATION DESCRIPTIVE PURPOSES; AND APPLICABLE CPT CODE(S) FOR EACH SERVICE.

STANDARD WORKERS' COMPENSATION PREMIUM, AS USED IN M.G.L. C. 152, § 65 AND 452 CMR 7.03, SHALL MEAN THE DIRECT WRITTEN PREMIUM EQUAL TO THE PRODUCT OF PAYROLL BY THE CURRENTLY APPLICABLE MANUAL RATES MULTIPLIED BY ANY APPLICABLE EXPERIENCE RATING.

7.03: COLLECTION OF TRUST FUND ASSESSMENTS

INSURERS SHALL REMIT TO THE DEPARTMENT AN AMOUNT EQUAL TO THAT ESTIMATED BY M.G.L. C. 152, § 65(5) IN PROPORTION TO THE DIRECT WRITTEN PREMIUM RECEIVED. NO SUCH AMOUNT REMITTED TO THE DEPARTMENT SHALL BE REIMBURSED UNTIL A REQUEST FOR REIMBURSEMENT IS RECEIVED BY THE DEPARTMENT AND APPROVED BY THE DEPARTMENT.

7.04: QUESTIONABLE CLAIMS HANDLING TECHNIQUES/PATTERNS OF UNREASONABLY CONTROVERT

(1) PURSUANT TO M.G.L. C. 23E, § 3(B)(8), EXCEPT IN THE CASE OF OPEN CASES ACTIVE IN THE DEPARTMENT'S DISPUTE RESOLUTION, THE DEPARTMENT'S DIVISION OF ADMINISTRATION SHALL CONDUCT AN INVESTIGATION, ON A FORM PRESCRIBED BY THE DEPARTMENT, WRITTEN ALLEGATIONS OF QUESTIONABLE HANDLING TECHNIQUES OR PATTERNS OF UNREASONABLY CONTROVERTING CLAIMS BY SELF-INSURERS, SELF-INSURERS, THIRD PARTY ADMINISTRATORS, EMPLOYERS, OR OTHER AGENTS AND BROKERS, HANDLING WORKERS' COMPENSATION CLAIMS.

7.04: CONTINUED

(2) THE DIVISION OF ADMINISTRATION SHALL CONDUCT AN INVESTIGATION, AND SHALL PROVIDE AN OPPORTUNITY TO RESPOND IN WRITING TO THE ALLEGATIONS WITHIN 30 DAYS. THE FINDINGS OF SAID INVESTIGATION SHALL BE REPORTED TO THE COMMISSIONER OF INSURANCE, TO THE PARTY MAKING THE ALLEGATION, AND TO THE PROVIDER, EXCEPT THAT WHEN A WRITTEN ALLEGATION INVOLVES A SELF-INSURED EMPLOYER, A DEPARTMENT-APPROVED VOCATIONAL REHABILITATION PROVIDER, OR A DEPARTMENT-APPROVED UTILIZATION REVIEW AGENT, THE FINDINGS SHALL BE FORWARDED TO THE DIRECTOR OF THE DEPARTMENT OR HIS OR HER REPRESENTATIVE TO THE COMMISSIONER OF INSURANCE.

(3) QUESTIONABLE CLAIMS HANDLING TECHNIQUES OR PATTERNS OF UNREASONABLY CONTROVERTING CLAIMS SHALL INCLUDE, BUT NOT BE LIMITED TO, TECHNIQUES OR PATTERNS OF PRACTICE SET OUT IN THE FOLLOWING:

- (A) MISREPRESENTING PERTINENT FACTS OR POLICY PROVISIONS RELATING TO COVERAGE OR BENEFITS UNDER M.G.L. C. 152, OR ANY OTHER MATERIAL FACTS OR PROVISIONS UNDER M.G.L. C. 152, OR FOR ANY OTHER PURPOSE;
- (B) FAILING TO ADOPT AND UTILIZE REASONABLE STANDARDS FOR THE HANDLING OF CLAIMS IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. C. 152, § 7;
- (C) FAILING TO EFFECTUATE PROMPT, FAIR, AND EQUITABLE ADJUSTMENTS OF CLAIMS WHERE THE CAUSAL RELATIONSHIP, AND/OR EXTENT OF DISABILITY HAVE BECOME REASONABLY CLEAR;
- (D) FAILING TO MAKE PAYMENT OR TO PROVIDE THE WRITTEN REASON(S) FOR NOT MAKING PAYMENT TO A PROVIDER, AS DEFINED IN 452 CMR 6.02(1), WHO HAS SUBMITTED A REQUEST FOR REIMBURSEMENT FOR PAYMENT IN ACCORDANCE WITH THE PROVISIONS OF M.G.L. C. 152, § 7(3) 30 AND WITHIN 45 DAYS OF RECEIPT OF THE REQUEST FOR REIMBURSEMENT;
- (E) PROSECUTING COMPLAINTS OR DEFENDING AGAINST CLAIMS WITHOUT REASONABLE CAUSE, INCLUDING, BUT NOT LIMITED TO, ENGAGING IN PRACTICES FOUND VIOLATIVE OF M.G.L. C. 152, § 7(3);
- (F) DELAYING OR PROLONGING THE PROCESSING OR PAYMENT OF REQUESTS FOR REIMBURSEMENT, INCLUDING, BUT NOT LIMITED TO, ENGAGING IN REPETITIVE, UNNECESSARY, OR OTHERWISE UNREASONABLE REQUESTS FOR THE SUBMISSION OF REIMBURSEMENT OR MEDICAL INFORMATION;
- (G) MAKING PAYMENT TO PROVIDERS AT RATES BELOW THOSE PRESCRIBED BY THE MASSACHUSETTS UTILIZATION REVIEW SETTING COMMISSION, UNLESS SAID RATES HAVE BEEN NEGOTIATED PURSUANT TO M.G.L. C. 152, § 7(3);
- (H) FAILING TO UNDERTAKE UTILIZATION REVIEW PURSUANT TO 452 CMR 6.00: *Utilization Review and Quality Assessment*, INCLUDING, BUT NOT LIMITED TO, FAILING TO:
  - 1. BECOME A DEPARTMENT-APPROVED UTILIZATION REVIEW AGENT OR, ALTERNATIVELY, WORK WITH A DEPARTMENT-APPROVED UTILIZATION REVIEW AGENT;
  - 2. MAINTAIN AND UTILIZE ADEQUATE STANDARDS AND PROCEDURES TO MONITOR AND ENFORCE UTILIZATION REVIEW PRACTICES; OR
  - 3. COMPLY WITH THE REPORTING REQUIREMENTS OF 452 CMR 6.05(2);
- (I) FAILING TO CONFORM WITH THE TIME FRAMES AND NOTICE REQUIREMENTS OF M.G.L. C. 152, § 7(3);
- (J) MISREPRESENTING FACTS OR LAW TO AN EXPERIENCED MODIFIED INSURED CONCERNING THE NATURE OF A CLAIM IN ORDER TO OBTAIN THE INSURED'S WRITTEN CONSENT, OR OTHERWISE FAILING TO OBTAIN CONSENT WHEN SO REQUIRED BY M.G.L. C. 152, § 7(3);
- (K) FAILING TO SUBMIT A REVISED STATISTICAL UNIT REPORT TO THE APPROPRIATE RATING AGENCY WITHIN 60 DAYS OF A FINDING OF NON-COMPENSABILITY, A RECOVERY OF PREVIOUSLY PAID COMPENSATION BENEFITS FROM A THIRD PARTY, OR REIMBURSEMENTS FROM A COMPENSATION TRUST FUND FOR PAYMENTS MADE PURSUANT TO M.G.L. C. 152, § 65(2);
- (L) FAILING TO PAY, IN A TIMELY MANNER, REFERRAL FEES DUE UNDER THE PROVISIONS OF M.G.L. C. 152, § 10(5).

(4) THE SUBMISSION OF EVIDENCE OF ANY QUESTIONABLE CLAIMS HANDLING TECHNIQUE OR PATTERN OF UNREASONABLY CONTROVERTING CLAIMS, INCLUDING BUT NOT LIMITED TO, THE TECHNIQUES OR PATTERNS OF PRACTICE SET OUT IN 452 CMR 7.04(3), MAY BE SUFFICIENT TO SUPPORT A FINDING BY THE DIVISION OF ADMINISTRATION THAT AN INSURER, GROUP SELF-INSURER, THIRD PARTY ADMINISTRATOR, OR PROVIDER HAS, OR IS, ENGAGING IN QUESTIONABLE CLAIMS HANDLING TECHNIQUES OR PATTERNS OF UNREASONABLY CONTROVERTING CLAIMS. THE DIVISION OF ADMINISTRATION SHALL REFER ITS FINDINGS TO THE COMMISSIONER OF INSURANCE TO UNDERTAKE SUCH ENFORCEMENT, LICENSE REVOCATION, OR OTHER ACTIONS AS MAY BE APPLICABLE BY LAW.

7.04: CONTINUED

(5) THE SUBMISSION OF EVIDENCE OF ANY QUESTIONABLE CLAIMS HANDLING TECHNIQUE UNREASONABLY CONTROVERTING CLAIMS, INCLUDING BUT NOT LIMITED TO, THE TECHNICAL PRACTICE SET OUT IN 452 CMR 7.04(3), MAY BE SUFFICIENT TO SUPPORT A FINDING BY THE DEPARTMENT OF ADMINISTRATION THAT A SELF-INSURER, VOCATIONAL REHABILITATION PROVIDER, OR UTILITIES COMPANY HAS, OR IS, ENGAGING IN QUESTIONABLE CLAIMS HANDLING TECHNIQUES OR PATTERNS UNREASONABLY CONTROVERTING CLAIMS. THE DIVISION OF ADMINISTRATION SHALL REFER ITS FINDINGS TO THE DEPARTMENT TO UNDERTAKE SUCH ENFORCEMENT, FINE, LICENSE REVOCATION, AND OTHER ACTIONS THAT MAY BE APPLICABLE BY LAW.

REGULATORY AUTHORITY

452 CMR 7.00: M.G.L. C. 23E AND C. 152.