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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKERS' COMPENSATION**

49 N.J.R. 3419(a)

Proposed New Rule: N.J.A.C. 12:235-1.9

[Click here to view Interested Persons Statement](#)

Electronic Medical Bills for Workers' Compensation Claims

Authorized By: Aaron R. Fichtner, Ph.D, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:15-144.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-253.

A **public hearing** on the proposed new rule will be held on the following date at the following location:

Tuesday, November 14, 2017

10:00 A.M. to 12:00 Noon

New Jersey Department of Labor and Workforce Development
John Fitch Plaza
11th Floor, Large Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by December 15, 2017, to:

David Fish, Executive Director
Legal and Regulatory Services
New Jersey Department of Labor and Workforce Development

PO Box 110
13th Floor
Trenton, New Jersey 08625-0110
Fax to: (609) 292-8246
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The agency proposal follows:

Summary

The Department of Labor and Workforce Development (Department) is proposing a new rule at N.J.A.C. 12:235-1.9 in order to implement P.L. 2016, c. 64 (Act), which requires that the Department adopt "rules and regulations," which require that:

(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 within section 4 of the Act, shall submit complete electronic medical bills for payment on standardized electronic forms following the guidelines established by the Department pursuant to the Act;

(b) Employers, workers' compensation insurance carriers of employers, or workers' compensation third-party administrators shall comply with the guidelines and accept electronic medical bills submitted for the payment of medical services;

(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 in compliance with the guidelines;

(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; and

(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 guidelines.

The Department is proposing a new rule at N.J.A.C. 12:235-1.9, which mirrors the statutory requirements listed above, adding only that the "guidelines" or standard to be followed in the submission of electronic medical bills for workers' compensation claims will be the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 837 National Standard. The Department has been assured by industry stakeholders that the ANSI ASC X12 837 National Standard is, in fact, the standard already in use for the electronic exchange of medical bills.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The body of the proposed new rule mirrors P.L. 2016, c. 64, except that it specifically names the ANSI ASC X12 837 National Standard as the official Statewide standard for the electronic exchange of medical billing information in workers' compensation, whereas the Act simply states that health care providers, billing representatives, companies that have purchased the right to pursue medical bills, employers, insurance carriers, and third-party administrators must comply with "guidelines" adopted by the Department. As indicated in the Summary above, it is the Department's understanding that the ANSI ASC X12 837 is the standard already in use by those engaged in the electronic exchange of medical bills in workers' compensation throughout the State and, in fact, around the country. It is the Department's belief that the proposed new rule would have a positive social impact in that it would minimize possible confusion as to which standard must be used for the electronic exchange of medical bills in workers' compensation. However, to the extent that any negative impact may result, it would derive from the Act, P.L. 2016, c. 64, not the proposed new rule, inasmuch as the Act, not the proposed new rule, imposes the electronic billing requirement.

Economic Impact

As indicated in the Summary and Social Impact statements above, the body of the proposed new rule mirrors P.L. 2016, c. 64, except that it specifically names the ANSI ASC X12 837 National Standard as the official Statewide standard for the electronic exchange of medical billing information in workers' compensation. Therefore, whatever negative economic impact might be felt by health care providers, billing representatives, companies that have purchased the right to pursue medical bills, employers, insurance carriers, or third-party administrators, as a result of having to adhere to an electronic billing requirement, would derive from the Act, P.L. 2016, c. 64, not the proposed new rule. As to the Department's naming of the ANSI ASC X12 837 National Standard as the official Statewide standard for the electronic exchange of medical billing information in workers' compensation, it is the Department's belief that it would have a positive economic impact in that it would minimize possible confusion as to which standard must be used for the electronic exchange of medical bills in workers' compensation.

Federal Standards Statement

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

Jobs Impact

The proposed new rule would have no impact on either the generation or loss of jobs.

Agriculture Industry Impact

The proposed new rule would have no impact on the agriculture industry.

[page=3420] Regulatory Flexibility Analysis

The proposed new rule would impose no reporting or recordkeeping requirements on small businesses, as the term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16 et seq.* As to compliance requirements, as indicated in the Summary and Social and Economic Impact statements above, it is the Act, not the new rule, which imposes an electronic billing requirement in workers' compensation, without making any distinction between large and small employers, on health care providers, billing representatives, companies that have purchased the right to pursue medical bills, employers, insurance carriers, or third-party administrators, some of which may be small businesses. The Act also instructs the Department, without making any distinction between large and small employers, to adopt "guidelines," for the electronic exchange of medical bills in workers' compensation. Since the Act makes no distinction between large and small employers relative to the e-billing requirement, the Department does not have the discretion to make any such distinction within the new rules. However, it is the Department's hope that by adopting the ANSI ASC X12 837 National Standard, which is understood to be the standard already in use by those engaged in the electronic exchange of medical bills throughout the country, including New Jersey, that this will minimize the impact of both the new rule and the Act on small and large businesses alike.

Housing Affordability Impact Analysis

The proposed new rule would not evoke a change in the affordability of housing or the average costs associated with housing. The basis for this finding is that the proposed new rule pertains to the electronic exchange of medical bills in workers' compensation and has nothing to do with housing.

Smart Growth Development Impact Analysis

The proposed new rule would not evoke a change in the housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed new rule pertains to the electronic exchange of medical bills in workers' compensation and has nothing to do with housing production.

Full text of the proposed new rule follows:

49 N.J.R. 3419(a)

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*, 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.