

Government Affairs Advisory

Subject: New York Adopts New Workers' Compensation DME Rules and Fee Schedule

On March 4, 2021, New York issued 12 NYCRR § 442.2, 442.4, and 442.5 to adopt a Durable Medical Equipment (DME) fee schedule and establish prior authorization (PA) rules including a Prosthetics Orthotics and Supply (DMEPOS) fee schedule and synergistic Prior Authorization Request (PAR) requirements.

Effective June 7, 2021, the newly adopted rules and fee schedule transfer the existing DMEPOS fee schedule from the current state Medicaid rates to state-specific workers' compensation rates, which are created and maintained by the Workers Compensation Board (WCB). The newly adopted rules utilize the electronic web-based OnBoard system for handling and responding to submitted PARs.

The following changes are addressed through the new DME rules:

- Updates to the fee schedule for the maximum permissible charge for DME, medical/surgical supplies, and orthotic and prosthetic appliances, which must be the fee payable for such equipment or supplies under the Official New York Workers' Compensation DME Fee Schedule prepared and published by the NY WC Board (Board).
- Adds the maximum permissible monthly charge for the rental of DME to be the rental price listed in the Official NY WC DME Fee Schedule multiplied by the total number of months or weeks respectively for which the DME is needed.
 - In the event the total rental charge exceeds the purchase price, the maximum permissible charge for the DME will be the purchase price listed in the Official NY WC DME Fee Schedule, whether or not the claimant keeps the DME or returns it when no longer needed.
 - Adds a timeline for compliance within six months of the effective date, and the requirement that all DME and supplies must be provided by a NY State Medicaid Enrolled Supplier in accordance with the Ground Rules set forth in the Official NY WC DME Fee Schedule, except for DME provided as part of medical treatment provided in conformity with these Ground Rule referenced on the board's website at wcb.ny.gov.
- Requirements for prior authorization:
 - To be obtained when indicated on the Official NY State WC DME Fee Schedule for any DME prior to prescribing or supplying.
 - When a medical provider recommends DME that is not listed in the Official NY WC DME Fee Schedule, prior authorization, including a proposed purchase price or rental price for such equipment, must be obtained and provided within the prior authorization request prior to prescribing or supplying such DME.

Apricus is working to ensure our processes are in full compliance with these new requirements. Our Regulatory Affairs Team continues to monitor these adoptions and will provide information on any new requirements as they are made available.

For more information regarding the adopted rule for the DME fee schedule, please visit: [NY WCB Website](#).