

DOBI ADOPTS NEW PIP MEDICAL FEE SCHEDULE -- MANY PHYSICIANS UNHAPPY

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The New Jersey Department of Banking & Insurance (DOBI) has adopted, effective October 1, 2007, a revised PIP fee schedule for physicians that continues to tie reimbursement to what payors pay, rather than what providers bill. State statute requires that DOBI establish a physician fee schedule that incorporate the reasonable and prevailing fees of 75% of the practitioners in a region. The statutory mandate however, may not have been met in the new rule, because DOBI bases its fee schedules on paid rather than billed fees.

DOBI originally considered setting the physician fee schedule at 120% of the Medicare Physician Fee Schedule but was convinced that some of the fees obtained through that formula would be extremely low. Instead, DOBI used as its sources of paid fee information the fee schedules of various payors including the Medicare and state Workers' Compensation fee schedules, health care providers, vendors such as the Ingenix "allowed fee" database (which is a database primarily composed of fees paid by managed care organizations), and proprietary information about fees paid by several large auto insurers. DOBI ultimately determined fee levels based on fees paid by auto insurers for the general fee level and used the Medicare RVU scale to rank the payments for different CPT codes.

The prior schedule set fees for only 92 codes; the new fee schedule sets fees for over 1,000 codes. Those fees still not on the fee schedule are reimbursed at the usual, customary and reasonable fee (UCR). For these services, the provider submits its usual and customary fee and the insurer determines reasonableness by comparing its experience with that provider and other providers in the region, using national databases of fees. Again, the statutory mandate of payment that incorporates the reasonable and prevailing fees of 75% of the practitioners in a region does not appear to have been met.

DOBI also adopted revised fee schedules for durable medical equipment and ambulance services, and a new fee schedule for ambulatory surgical centers. The facility fee for ASCs is set at 300% of the Medicare base rate, although DOBI plans, through future rulemaking, to amend the ASC schedule and regulatory structure to be consistent with Medicare's recently adopted ASC rate payment structure. The new rule requires that, to be eligible to receive a facility fee under PIP, an ASC must be licensed by the state or be a physician-owned single operating room certified by Medicare. DOBI did not directly address single room ASCs that obtain "deemed" Medicare certification through accreditation from private accrediting organizations. So, while such entities could be considered Medicare certified, it is unclear whether single room ASCs that have obtained such "deemed" Medicare certification status will qualify for facility fees under PIP.

The rule continues to exempt from the PIP fee schedule all inpatient services provided to patients who are treated by trauma physicians in hospitals designated as trauma centers. Surgical services

provided to PIP patients in the emergency rooms of general acute care hospitals are reimbursed at 150 percent of the fee schedule amount; non-surgical services are reimbursed at the fee schedule amount; and services that are not on the fee schedule are reimbursed at the usual, customary and reasonable fee.

The fee schedule was initially proposed in 2006 and is based primarily on data from 2005. State statute requires that the fee schedule be updated biennially for inflation and DOBI plans to propose an update in 2008.

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