

Section 27 of Worker's Comp Bill

SECTION 27. NEW LAW A new section of law to be

22 codified in the Oklahoma Statutes as Section 327 of Title 85,
23 unless there is created a duplication in numbering, reads as
24 follows:

25 A. For the express purpose of reducing the overall cost of
26 medical care for injured workers in the workers' compensation
27 system by five percent (5%), the Administrator of the Workers'

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1 Compensation Court is hereby directed to develop a new "Oklahoma
2 Workers' Compensation Medical Fee Schedule" to be implemented by
3 January 1, 2012. Thereafter, the Administrator shall conduct a
4 review of the Fee Schedule every two (2) years. The Fee Schedule
5 shall establish the maximum rates that medical providers shall be
6 reimbursed for medical care provided to injured workers,
7 including, but not limited to, charges by physicians, dentists,
8 counselors, hospitals, ambulatory and outpatient facilities,
9 clinical laboratory services, diagnostic testing services, and
10 ambulance services, and charges for durable medical equipment,
11 prosthetics, orthotics, and supplies.

12 B. Reimbursement for medical care shall be prescribed and
13 limited by the Fee Schedule as adopted by the Administrator, after
14 notice and public hearing. The director of the Oklahoma State
15 Employees Group Insurance Board shall provide the Administrator
16 such information as may be relevant in the development of the Fee
17 Schedule. The Administrator shall develop the Fee Schedule in a
18 manner in which quality of medical care is assured and maintained

19 for injured workers. The Administrator shall give due
20 consideration to additional requirements for physicians treating
21 an injured worker under this act, including, but not limited to,
22 communication with claims representatives, case managers,
23 attorneys, and representatives of employers, and the additional
24 time required to complete forms for the Court, insurance carriers,
25 and employers.

26 C. In making adjustments to the Fee Schedule, the
27 Administrator shall use, as a benchmark, the reimbursement rate

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1 for each Current Procedural Terminology (CPT) code provided for in
2 the fee schedule published by the Centers for Medicare and
3 Medicaid Services of the U.S. Department of Health and Human
4 Services for use in Oklahoma (Medicare Fee Schedule) on the
5 effective date of this act. For services not valued by CMS, the
6 Administrator shall establish values based on the usual, customary
7 and reasonable medical payments to health care providers in the
8 same trade area for comparable treatment of a person with similar
9 injuries.

10 1. No reimbursement shall be allowed for any magnetic
11 resonance imaging (MRI) unless the MRI unit produces a field
12 strength that is equal to or greater than 1.0 Tesla. For all
13 other radiology procedures, the reimbursement rate shall be the
14 lesser of the reimbursement rate allowed by the 2010 Oklahoma Fee
15 Schedule or two hundred seven percent (207%) of the Medicare Fee
16 Schedule.

17 2. For reimbursement of medical services for Evaluation and
18 Management of injured employees as defined in the fee schedule

19 adopted by the Administrator, the reimbursement rate shall not be
20 less than one hundred fifty percent (150%) of the Medicare Fee
21 Schedule.

22 3. Any entity providing durable medical equipment,
23 prosthetics, orthotics or supplies must be accredited by a CMS-
24 approved accreditation organization. In the event a physician
25 provides durable medical equipment, prosthetics, orthotics,
26 prescription drugs, or supplies to a patient ancillary to the
27 patient visit, reimbursement will be no more than ten percent

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1 (10%) above cost.

2 4. The Administrator shall develop a reasonable stop loss
3 provision of the Fee Schedule to provide for adequate
4 reimbursement for treatment for major burns, severe head and
5 neurological injuries, multiple system injuries, and other
6 catastrophic injuries requiring extended periods of intensive
7 care.

8 D. The right to recover charges for every type of medical
9 care for injuries arising out of and in the course of covered
10 employment as defined in this act shall lie solely with the
11 Workers' Compensation Court and its administration. When a
12 medical care provider has brought a claim in the Court to obtain
13 payment for services, a party who prevails in full on the claim
14 shall be entitled to a reasonable attorney fee.

15 E. Nothing in this section shall prevent an employer,
16 insurance carrier, group self-insurance association, or certified
17 workplace medical plan from contracting with a provider of medical

18 care for a reimbursement rate that is greater than or less than
19 limits established by the Fee Schedule.

20 F. A treating physician may not charge more than Four
21 Hundred Dollars (\$400.00) per hour for preparation for or
22 testimony at a deposition or court appearance in connection with a
23 claim covered by the Workers' Compensation Code.

24 G. The Administrator's review of medical and treatment
25 charges pursuant to this section shall be conducted pursuant to
26 the Fee Schedule in existence at the time the medical care or
27 treatment was provided. The order approving the medical and

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1 treatment charges pursuant to this section shall be enforceable by
2 the Court in the same manner as provided in the Workers'
3 Compensation Code for the enforcement of other compensation
4 payments. Any party feeling aggrieved by the order, decision or
5 award of the Administrator shall, within ten (10) days, have the
6 right to request a hearing on such medical and treatment charges
7 by a judge of the Court. The judge of the Court may affirm the
8 decision of the Administrator, or reverse or modify the decision
9 only if it is found to be contrary to the Fee Schedule existing at
10 the time the medical care or treatment was provided. The order of
11 the judge shall be subject to the same appellate procedure set
12 forth for all other orders of the Court.

13 H. Charges for prescription drugs dispensed by a pharmacy
14 shall be limited to ninety percent (90%) of the average wholesale
15 price of the prescription, plus a dispensing fee of Five Dollars
16 (\$5.00) per prescription. "Average wholesale price" means the
17 amount determined from the latest publication designated by the

18 Administrator. Physicians shall prescribe and pharmacies shall
19 dispense generic equivalent drugs when available. If the NDC for
20 the drug product dispensed is for a repackaged drug, then the
21 maximum reimbursement shall be the lesser of the original
22 labeler's NDC or the lowest cost therapeutic equivalent drug
23 product. Compounded medications shall be billed by the
24 compounding pharmacy at the ingredient level, with each ingredient
25 identified using the applicable NDC of the drug product, and the
26 corresponding quantity. Ingredients with no NDC area are not
27 separately reimbursable. Payment shall be based upon a sum of the

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1 allowable fee for each ingredient plus a dispensing fee of five
2 dollars (\$5.00) per prescription.

3 I. When medical care includes prescription drugs dispensed
4 by a physician or other medical care provider, the employer or
5 insurance carrier shall be required to pay the lesser of the
6 reimbursement amount specified under the schedule of fees adopted
7 by the Administrator, the reimbursement amount for prescription
8 drugs obtained by mail order, when mail order is available, or the
9 reimbursement amount for prescription drugs obtained at a retail
10 pharmacy. If the National Drug Code (NDC) for the drug product
11 dispensed is for a repackaged drug, then the maximum reimbursement
12 shall be the lesser of the original labeler's NDC or the lowest
13 cost therapeutic equivalent drug product. Compounded medications
14 shall be billed by the compounding pharmacy.