

Subdivision (c) of Section 325-1.25 of Title 12 NYCRR is hereby amended to read as follows:

(c) Payment of bills for Medical Care.

(1) The employer or insurance carrier (or third-party administrator), within 45 days after the bill has been [submitted] received shall pay the bill or shall notify the physician, occupational or physical therapist, podiatrist, chiropractor, psychologist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital, or other provider of Medical Care, the claimant and claimant's attorney if applicable, and the Board in the format prescribed by the Chair (which may be electronic) for such purpose that the bill is not being paid and the reasons for non-payment. If the employer or insurance carrier (or third-party administrator) objects to payment of all or part of the bill for reasons concerning its legal liability for payment, the legal objections shall be [placed on the Chair prescribed form] made in the format prescribed by the Chair for such purpose and submitted to the physician, occupational or physical therapist, podiatrist, chiropractor, psychologist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital, or other provider of Medical Care, the claimant and claimant's attorney if applicable, and the Board simultaneously with any other objections to the bill. If the employer or insurance carrier (or third-party administrator) objects to payment of all or part of the bill for reasons concerning the value of the treatment performed or the amount billed, the valuation objections shall be [placed on the Chair prescribed form] made in the format prescribed by the Chair for that purpose and submitted to the physician, occupational or physical therapist, podiatrist, chiropractor, psychologist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital, or other provider of Medical Care, the claimant and claimant's attorney if applicable, and the Board simultaneously with any other objections to the bill. [, except] However, if the only objection is that the amount billed for the particular Current Procedural Terminology (CPT) code is in excess of the appropriate fee schedule for the region where the services were provided, [then] the insurance carrier or employer (or third-party administrator) may instead file its explanation of benefits form. If the employer or insurance carrier (or third-party administrator) objects to payment of all or part of the bill for one or more of the Medical Treatment Guidelines objections set forth in paragraph (7) of this subdivision, the objections shall be placed in the format prescribed by the Chair (which may be electronic), along with the basis for the objection, and submitted to the physician, occupational or physical therapist, podiatrist, chiropractor, or psychologist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital, or other provider of Medical Care, the claimant and claimant's attorney if applicable, and the Board simultaneously with any other objections to the bill.

(2) If the employer or insurance carrier (or third-party administrator) objects to only a portion of the bill submitted, it shall pay the uncontested portion within 45 days and file objections to the remaining portion as indicated herein.

(3) If the employer or insurance carrier (or third-party administrator) has not objected in the manner described herein to the payment of the bill within 45 days of submission, it

shall be liable for payment of the full amount billed up to the maximum amount established in the applicable fee schedule. The Board shall not review any objection made thereafter.

(4) Legal, valuation, and Medical Treatment Guidelines objections shall be made simultaneously in the format prescribed by the Chair (which may be electronic).

(5) Valuation objections as to the amount of the bill include, but are not limited to, contentions that the bill is excessive and not in accordance with the pertinent fee schedule; has not been properly pro-rated or apportioned between providers; involves concurrent, duplicative, or overlapping services; uses improper current procedural terminology codes; is not in accordance with the Ground Rules limitation in the appropriate official workers' compensation fee schedule; is rendered too frequently; involves unnecessary or excessive hospitalization; or involves a physician, occupational or physical therapist, podiatrist, chiropractor, psychologist, nurse practitioner, physician assistant, licensed clinical social worker or acupuncturist treating outside the scope of practice.

(6) Legal objections as to the liability of the employer or insurance carrier (or third-party administrator) to pay include, but are not limited to, contentions that the claim has been controverted and liability has not been resolved; prior authorization for the special medical service was not granted; treatment was not causally related to the compensable injury; treatment provided was outside of the preferred provider organization; the medical report was not timely filed or was legally defective; the medical appliance, program, or provider is not authorized under the Workers' Compensation Law; or the bill is for evidentiary purposes and not for treatment. Pursuant to [Workers' Compensation Law section 13\(a\)](#), raising the issue of liability under [Workers' Compensation Law section 25-a](#) is not a valid legal objection to payment of a bill for treatment. A legal objection that was not properly raised in response to any applicable prior authorization request will be denied. The employer or insurance carrier (or third-party administrator) shall attach or identify the denial made to any applicable prior authorization request to its legal objection.

(7) The Medical Treatment Guidelines objections as to the liability of the employer or insurance carrier (or third-party administrator) to pay are:

- (i) the treatment is not consistent with the Medical Treatment Guidelines and a variance was not requested or approved by the employer or insurance carrier (or third-party administrator), or the Board before the Medical Care was rendered;
- (ii) the physician, podiatrist, chiropractor, psychologist, nurse practitioner, licensed clinical social worker, or hospital varied from the Medical Treatment Guidelines, the physician, podiatrist, chiropractor, psychologist, nurse practitioner, licensed clinical social worker, hospital, or other provider of Medical Care, requested and received approval for a variance from the employer or insurance carrier (or third-party administrator) or the Board before the Medical Care was rendered but provided Medical Care other than what was covered by the variance; or

(iii) the physician, occupational or physical therapist, podiatrist, chiropractor, psychologist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital or other legally permitted Medical Care provider misapplied the Medical Treatment Guidelines.

(iv) A Medical Treatment Guideline objection that was not properly raised in response to any applicable prior authorization request will be denied. The employer or insurance carrier (or third-party administrator) shall attach or identify the denial made to any applicable prior authorization request to its legal objection.

Paragraph (3) of subdivision (d) of section 325-1.25 of Title 12 NYCRR is hereby amended to read as follows:

(3)

(i) The Board will not accept any request for an administrative award until thirty days after all issues duly and timely raised by the employer or insurance carrier (or third-party administrator) with respect to its legal liability for payment and/or any Medical Treatment Guidelines objections set forth in paragraph (c)(7) of this section have been finally determined adversely to it.

(ii) A provider may only submit one request for an administrative award for each date of service. A request for administrative award that includes a date of service that was included on a previously submitted request for administrative award will be rejected.

Paragraph (4) of subdivision (e) of section 325-1.25 of Title 12 NYCRR is hereby amended to read as follows:

(4) The Chair will not accept any request for an arbitration award until thirty days after all issues duly and timely raised by the employer or insurance carrier (or third-party administrator) with respect to its legal liability for payment and/or any Medical Treatment Guidelines objections set forth in paragraph (c)(7) of this section have been finally determined adversely to it.

Paragraph (2) of subdivision (f) of section 325-1.25 of Title 12 NYCRR is hereby amended to read as follows:

(2) If legal liability and/or Medical Treatment Guidelines objection for the service is found in favor of the physician, podiatrist, chiropractor, psychologist, occupational or physical therapist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital or other provider of Medical Care, the employer, insurance carrier (or third-party administrator) shall pay the bill within 30 days from the filing of the proposed decision or Notice of Decision unless the employer or insurance carrier (or third-party administrator) timely submitted a valuation objection simultaneously with its legal objection(s) to the medical provider's bill [or may raise valuation issues as to all or part of the bill within 30 days in the format prescribed by the Chair (which may be electronic) for such purpose as indicated herein].

Paragraph (3) of subdivision (f) of section 325-1.25 of Title 12 NYCRR is hereby amended to read as follows:

(3) If the employer or insurance carrier (or third-party administrator) files an application for review pursuant to [Workers' Compensation Law section 23](#) from the Notice of Decision finding legal liability and/or Medical Treatment Guidelines objection in favor of the physician, podiatrist, chiropractor, psychologist, occupational or physical therapist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital or other provider of Medical Care, the employer or insurance carrier (or third-party administrator) may withhold payment of the bills up to the amount in dispute until a Workers' Compensation Law Judge or conciliation decision, or if appealed, a Board Panel decision is rendered by the Board. If a Workers' Compensation Law Judge or conciliation decision, or if appealed, a Board Panel decision is filed finding legal liability and/or Medical Treatment Guidelines objection in favor of the physician, podiatrist, chiropractor, psychologist, occupational or physical therapist, nurse practitioner, physician assistant, licensed clinical social worker, acupuncturist, hospital or other provider of Medical Care, the employer or insurance carrier (or third-party administrator) shall pay the bill within 30 days from the filing of the Workers' Compensation Law Judge or conciliation decision, or if appealed, Board Panel decision unless the employer or insurance carrier (or third-party administrator) timely submitted a valuation objection simultaneously with its legal objection(s) to the medical provider's bill [or may raise valuation issues as to all or part of the bill within 30 days by submitting such valuation issues in the format prescribed by the Chair (which may be electronic) for such purpose as indicated herein]. A subsequent application to the Full Board, except for review by the Full Board of a Board Panel decision which one member dissented from, or to the Appellate Division of the Supreme Court, Third Department, or to the Court of Appeals on the issue of legal liability/or Medical Treatment Guidelines objection shall not operate as a stay of the payment of the bills for medical or hospital services.