

Section 324.2 of Title 12 NYCRR is hereby amended to read as follows:

(a) *Medical Treatment Guidelines*. Regardless of the date of accident or date of disablement, treatment of on the job injuries, illnesses, or occupational diseases [to a worker's lumbar, thoracic, or cervical spine, shoulder or knee, or for carpal tunnel syndrome, or non-acute pain, hip or groin, foot or ankle, elbow, or occupational interstitial lung disease] shall be consistent with the applicable Medical Treatment Guidelines set forth herein[in paragraphs (1) through (10) of this subdivision]. The operative Medical Treatment Guidelines shall be the Medical Treatment Guidelines in place on the date on which medical services are rendered. All Treating Medical Providers shall treat all existing and new workers' compensation injuries, illnesses, or occupational diseases, except as provided in section 324.3 of this Part, in accordance with the following:

(1) for the lumbar and thoracic spine, the New York Mid and Low Back Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is herein incorporated by reference;

(2) for the cervical spine, the New York Neck Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference;

(3) for the knee, with the New York Knee Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference;

(4) for the shoulder, the New York Shoulder Injury Medical Treatment Guidelines, Third Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference; and

(5) for treatment of carpal tunnel syndrome before January 1, 2020, the New York Carpal Tunnel Syndrome Medical Treatment Guidelines, Second Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference; and,

(6) for non-acute pain, the New York Non-Acute Pain Medical Treatment Guidelines, First Edition, September 15, 2014, effective November 1, 2014, which is incorporated herein by reference.

(7) for the hip and groin, the New York Hip/Groin Medical Treatment Guideline, First Edition, March 18, 2020, effective January 1, 2021, which is incorporated herein by reference; and

(8) for the foot and ankle, the New York Foot/Ankle Medical Treatment Guideline, First Edition, March 18, 2020, effective January 1, 2021, which is incorporated herein by reference; [and]

(9) for the elbow, the New York Elbow Medical Treatment Guideline, first edition, March 18, 2020 effective January 1, 2021, herein incorporated by reference; [and]

(10) for occupational interstitial lung disease, the New York Occupational Interstitial Lung Disease Medical Treatment Guideline, first edition, March 18, 2020, effective January 1, 2021, herein incorporated by reference.

(11) for asthma, the New York Asthma Medical Treatment Guideline, first edition, May 12, 2020, effective January 1, 2021, herein incorporated by reference; and

(12) for hand, wrist and forearm, including treatment for carpal tunnel syndrome rendered on or after January 1, 2020, the New York Hand, Wrist & Forearm Medical Treatment

Guideline, first edition, May 12, 2020, effective January 1, 2021, herein incorporated by reference.

(b) *Obtaining the medical treatment guidelines.* The New York [Mid and Low Back Injury Medical Treatment Guidelines, New York Neck Injury Medical Treatment Guidelines, New York Knee Injury Medical Treatment Guidelines, New York Shoulder Injury Medical Treatment Guidelines, New York Carpal Tunnel Syndrome Medical Treatment Guidelines, and New York Non-Acute Pain Medical Treatment Guidelines, New York Hip and Groin Medical Treatment Guidelines, New York Foot and Ankle Medical Treatment Guidelines, New York Elbow Medical Treatment Guidelines, and New York Occupational Interstitial Lung Disease] Medical Treatment Guidelines incorporated by reference herein may be examined at the office of the Department of State, 99 Washington Avenue, Albany, New York, 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the Board. Copies may be downloaded from the Board's website without a fee, or obtained from the Board by submitting a request in writing, [with the appropriate fee,] identifying the specific guideline requested [and the choice of format] to Publications, New York State Workers' Compensation Board, 328 State Street, Schenectady, New York 12305-2318. [Information about the Medical Treatment Guidelines can be requested by email at GENERAL__INFORMATION@wcb.ny.gov, or by telephone at 1-800-781-2362. The Medical Treatment Guidelines are available on paper or compact disc. A fee of \$10 will be charged for each guideline requested in paper format, and a fee of \$5 will be charged for a compact disc containing all guidelines requested. Payment of the fee shall be made by check or money order payable to "Chair WCB."]

(c) *Limitations.* The Medical Treatment Guidelines in subdivision (a) of this section and this Part are not intended to, and were not prepared with the expectation of, establishing a standard for determining professional liability.

(d) *Pre-authorized procedures list.*

(1) All medical care consistent with the Medical Treatment Guidelines costing more than \$1,000 is included on the pre-authorized procedures list, except for the medical care set forth in paragraph (2) of this subdivision. Medical care costing more than \$1,000 included on the pre-authorized procedures list are pre-authorized so Treating Medical Providers are not required to request prior authorization.

(2) The following medical care consistent with the Medical Treatment Guidelines costing more than \$1,000 is not included on the pre-authorized procedures list set forth in paragraph (1) of this subdivision so that prior authorization is required:

(i) Lumbar fusion as set forth in E.4 of the New York Mid and Low Back Injury Medical Treatment Guidelines;

(ii) Artificial disc replacement as set forth in E.5 of the New York Mid and Low Back Injury Medical Treatment Guidelines, and in E.3 of the New York Neck Injury Medical Treatment Guidelines;

(iii) Vertebroplasty as set forth in E.6.a.i. of the New York Mid and Low Back Injury Medical Treatment Guidelines;

(iv) Kyphoplasty as set forth in E.6.a.i. of the New York Mid and Low Back Injury Medical Treatment Guidelines;

(v) Electrical bone stimulation as set forth in the New York Mid and Low Back Injury Medical Treatment Guidelines and the New York Neck Injury Medical Treatment Guidelines;

- (vi) Osteochondral autograft as set forth in D.1.f and Table 4 of the New York Knee Injury Medical Treatment Guidelines;
 - (vii) Autologus chondrocyte implantation as set forth in D.1.f., Table 5, and D.1.g. of the New York Knee Injury Medical Treatment Guidelines;
 - (viii) Meniscal allograft transplantation as set forth in D.6.f., Table 8, and D.7. of the New York Knee Injury Medical Treatment Guidelines;
 - (ix) Knee arthroplasty (total or partial knee joint replacement) as set forth in F.2. and Table 11 of the New York Knee Injury Medical Treatment Guidelines;
 - (x) Spinal Cord Pain Stimulators as set forth in G.1 of the Non-Acute Pain Medical Treatment Guidelines; and,
 - (xi) Intrathecal Drug Delivery (Pain Pumps) as set forth in G.2 of the Non-Acute Pain Medical Treatment Guidelines.
- (3) Notwithstanding that a surgical procedure is consistent with the guidelines, a second or subsequent performance of such surgical procedure shall require prior approval if it is repeated because of the failure or incomplete success of the same surgical procedure performed earlier, and if the Medical Treatment Guidelines do not specifically address multiple procedures.
- (e) *Variances from the Medical Treatment Guidelines* are permissible only as provided in section 324.3 of this Part.
- (f) *Maximum medical improvement* shall not preclude the provision of medically necessary care for claimants. Such care shall be medically necessary to maintain function at the maximum medical improvement level or to improve function following an exacerbation of the claimant's condition. Post-maximum medical improvement medical services shall conform to the relevant Medical Treatment Guidelines, except as provided in section 324.3 of this Part.