

The title to Subchapter M of Chapter V of Title 12 NYCRR is amended to read as follows:

M. Pharmacy, [and] Durable Medical Goods, and Dental Fee Schedules and Appendices

Subchapter M of Chapter V. of Title 12 NYCRR is amended to add a new Part 444 to read as follows:

Part 444. Dental Fee Schedule

Section 444.1 Applicability

This dental fee schedule is applicable to dental treatment and procedures performed on or after, March 1, 2009, for the necessary care and treatment of an injured employee regardless of the date of accident or date of disablement. The date of service for dental treatment or for a dental procedure shall be the applicable date for reimbursement in accordance with this fee schedule. Dental treatment or procedures performed prior to March 1, 2009, shall be reimbursed at the usual and customary rate in the location where the claimant resides.

Section 444.2. Fee Schedule

(1) The dental fee schedule for all dental services shall be the *Official New York Workers' Compensation Dental Fee Schedule*, First Edition, March 1, 2009, prepared by the Chair and published by the Board, which is hereby incorporated by reference, except that the maximum reimbursement for dental services in cases in which the insurance carrier files or has filed a notice of controversey pursuant to Workers' Compensation Law section 25(2)(a) or (b) shall be twenty-five percent more than the fees set forth in the *Official New York Workers' Compensation Dental Fee Schedule*.

(2) The *Official New York Workers' Compensation Dental Fee Schedule* incorporated by reference herein may be examined at the office of the Department of State, 99 Washington Avenue, Suite 650, Albany, New York 12231, the Legislative Library, the libraires of the New York State Supreme Court, and the district offices of the Board in Albany, Binghamton, Brooklyn, Buffalo, Hauppauge, Hempstead, Manhattan,

Peekskill, Queens, Rochester and Syracuse. Copies may be obtained from the Board by writing to New York Workers' Compensation Dental Fee Schedule, Bureau of Health Management, New York State Workers' Compensation Board, 100 Broadway – Menands, Albany, New York 12241 or by telephone at 1-800-7812362 or by email at general_information@wcb.state.ny.us.

(3) The dental fee schedule shall be updated by the Chair as he or she deems warranted by changes in market rates. The dental fee schedule consists of a list of Current Dental Terminology (CDT) codes and descriptions of treatment services and procedures as published by the American Dental Association with a corresponding maximum fee to be charged by dental providers. Nothing shall prohibit a provider from charging a fee that is less than the fee schedule.

(4) Any treatment or procedure provided in connection with a work related injury not specifically contained in the dental fee schedule should be billed using CDT code D9999 "Unspecified Adjunctive Procedure By Report" (BR). The provider should establish a fee consistent in relativity with the other fees listed in the dental fee schedule. Any bill submitted by a dental provider which lists CDT Code D9999 shall be accompanied by a report providing the reasons why such procedure is necessary to treat the injured employee.

444.3 Payment of Bills and Reimbursement Requests.

(1) Bills submitted by a dental provider to the carrier or self-insured employer for payment or reimbursement shall be paid according to the fee schedule adopted under Workers' Compensation Law Section 13(a) within forty-five calendar days of receipt of the bill or reimbursement request.

(2) Where the liability of the self-insured employer or carrier for the claim has not been established or the treatment or procedure is not for a causally related condition, the self-insured employer or carrier shall pay any undisputed amount of the bill or reimbursement request and notify the Board, claimant and dental provider in writing using the form prescribed by the Chair for this purpose within forty-five calendar days of receipt of the

claim or reimbursement request: a) that the claim is not being paid and the reason for non-payment of the claim; or b) to request additional information needed to reasonably determine the self-insured employer's or carrier's liability for the claim or whether the dental treatment or procedure is causally related to the injury. Upon receipt of the information reasonably requested, the self-insured employer or carrier shall have thirty days to pay the bill or reimbursement request or provide written notice to the Board, claimant and dental provider using the form prescribed by the Chair for this purpose explaining why the bill is not being paid with copies of the additional information requested attached to the form to support the determination.

(3) Where the self-insured employer or carrier has failed to pay a bill or reimbursement request or make reasonable request for additional information within forty-five calendar days, the self-insured employer or carrier is deemed to have waived any objection to liability for the bill or reimbursement request and shall pay the bill or reimbursement request.