

Assessment of Public Comment

The 45-day public comment period with respect to Proposed Rule I.D. No. WCB371500004 commenced on September 16, 2015, and expired on October 26, 2015. The Chair and the Workers' Compensation Board (Board) accepted formal written public comments on the proposed rule through October 26, 2015.

The Chair and Board received four written comments. These comments were reviewed and assessed. The comments are discussed below.

The Board received three comments from providers of spinal cord stimulators. These commenters stated that the methodology proposed by the Board that does not permit separate reimbursement for spinal cord stimulators unacceptably reduces payments for these devices. Initially the Board notes that all surgical implants are treated the same under the Ambulatory Patient Groups (APG) methodology adopted by the New York State Department of Health and incorporated by reference by the Board. Secondly, the Board notes that the methodology that incorporates payment for the implant within the total cost for the procedure is consistent with Medicaid and other health plans' approach. Finally, the Board notes that the Medical Advisory Committee that developed the Medical Treatment Guidelines states that use of spinal cord stimulators is rarely recommended. Accordingly, the Board did not make any changes in response to this comment.

A comment from the New York State Association of Ambulatory Surgery Centers states that the Board should reconsider the cuts to pain management reimbursement. The Board disputes that the rates for pain management reimbursement have been cut. While Medicaid and Medicare may have cut some base rates associated to pain management reimbursement, the Ambulatory Fee Schedule reimburses at 150% of Medicaid. Accordingly no change has been made in response to this comment.

The same commenter also stated that the proposed fee schedule reduced rates for orthopedic surgeons reimbursements and that this would result in more patients having surgeries performed in hospitals at increased costs to the system. The proposed fee schedule does not reduce reimbursement to orthopedic surgeons. The

Ambulatory Fee Schedule using APG methodology will reimburse facilities at 150% of Medicaid rates. The prior Ambulatory Fee Schedule using PAS methodology reimbursed at 150% of Medicaid rates in 2003.

Accordingly no change has been made in response to this comment.

The same commenter stated that the deadline associated to the transition to ICD-10 imposed a hardship on its members as the payer community was not prepared. As the Board announced the transition to ICD-10 in 2012, the Board thinks there has been ample opportunity to prepare for the transition. Accordingly no change has been made in response to this comment.