

Subdivision (c) of section 300.10 of Title 12 NYCRR is hereby amended to read as follows:

(c) When the employer or its carrier or special fund desires to produce for cross-examination an attending physician whose report is on file, the referee [shall] may grant an adjournment for such purpose. The employer, carrier, or special fund shall provide an offer of proof showing the reason for cross-examination. If the request is denied, the referee shall address such offer and provide the basis of any denial of an adjournment. If the physician is not produced for cross-examination[at such adjourned hearing], a further adjournment shall be granted only when the referee finds there is sufficient excuse for the physician's nonappearance, which excuse shall be noted [on] in the record and conditioned upon the resort by the employer or its carrier, or special fund to a subpoena for cross-examination [the next hearing]. If such adjournment is granted and the physician does not appear, unless extraordinary circumstances are shown, the referee shall proceed to determine the claim upon the evidence in the record. The obligation to invoke court action for the enforcement of the subpoena shall be that of the employer or its carrier or special fund.

A new subdivision (e) of section 300.10 of Title 12 NYCRR is hereby added to read as follows:

(e) Unless otherwise directed by the board and regardless of which party requests the opportunity to depose an opposing party's medical witness, the employer or its carrier or special fund shall bear responsibility for contacting the witness and opposing parties to secure such deposition, issuing a subpoena for such deposition in accordance with the New York Civil Practice Laws and Rules if necessary, securing a stenographer, filing a copy of the stenographic minutes of the deposition with the Board on or before the date set by the board, and serving a copy of the stenographic minutes of the deposition on all opposing parties. Unless otherwise directed by the board and regardless of which party requests that opportunity to depose an opposing party's medical witness, the employer or its carrier or special fund shall bear all costs related to taking the deposition.

A new subdivision (f) of section 300.10 of Title 12 NYCRR is hereby added to read as follows:

(f) Any party may request an extension of time to produce deposition transcript(s). All requests for extension to produce deposition transcript(s) must be submitted in writing on or before the deadline to produce deposition transcript(s), in a format prescribed by the board, which may be electronic.

Section 301.1 of Title 12 NYCRR is amended to read as follows:

Whenever the attendance of the injured employee's treating or consultant physician or podiatrist by deposition or at a hearing is required, such physician or podiatrist shall be entitled to a fee [of \$450] as described in this section. In instances involving special circumstances, should the [Board]board in its judgment deem that the appropriate fees specified [above is] in this section are inadequate, the [Board]board may fix a fee in an amount greater than said sum for such hearing, such increased fee to be commensurate with the circumstances in the particular case. The circumstances to be considered are the

period of time the physician or podiatrist has consumed in testifying[,] and traveling time from the physician's or podiatrist's office to the hearing point. Where the attendance is pursuant to a subpoena issued by the board, the Workers' Compensation Law judge, or any officer of the board so designated by the chair, the attendance fee may be limited to no more than \$100.

When a treating or consultant physician or podiatrist has been deposed, submission of a bill and/or additional direction of payment are not necessary, and fee amounts are as follows: if the fee is paid within 45 days of the deposition, the fee is \$500 for the first hour or fraction thereof and \$125 for each additional 15-minute increment or fraction thereof; if the fee is paid 46 or more days after the deposition, the fee is \$700 for the first hour or fraction thereof and \$125 for each additional 15-minute increment or fraction thereof. The physician or podiatrist may file a request in the same format as a request for decision on unpaid medical bills in the format prescribed by the chair, which may be electronic, and the fee will accrue interest in the same manner as an unpaid medical bill.

Section 301.3 of Title 12 NYCRR is amended to read as follows:

Whenever the attendance of the injured employee's treating or consultant chiropractor, nurse practitioner, licensed clinical social worker, physician assistant, or psychologist by deposition or at a hearing is required, such chiropractor, nurse practitioner, licensed clinical social worker, or psychologist shall be entitled to a fee [of \$350] as described in this section. In instances involving special circumstances, the board may fix a fee in an amount greater than the said sum, such increased fee to be commensurate with the circumstances in the particular case. Where the attendance is pursuant to a subpoena issued by the board, the Workers' Compensation Law judge or any officer of the board so designated by the chair, the attendance fee may be limited to no more than \$70.

When a treating or consultant chiropractor, nurse practitioner, licensed clinical social worker, physician assistant, or psychologist has been deposed, submission of a bill and/or additional direction of payment are not necessary, and fee amounts are as follows: if the fee is paid within 45 days of the deposition, the fee is \$400 for the first hour or fraction thereof and \$100 for each additional 15-minute increment or fraction thereof; if the fee is paid 46 or more days after the deposition, the fee is \$600 for the first hour or fraction thereof and \$100 for each additional 15-minute increment or fraction thereof. The chiropractor, nurse practitioner, licensed clinical social worker, physician assistant, or psychologist may file a request in the same format as a request for decision on unpaid medical bills in the format prescribed by the chair, which may be electronic, and the fee will accrue interest in the same manner as an unpaid medical bill.