

Summary Assessment of Public Comment

During the public comment period, the Board received approximately 83 comments, including several copies of a form letter and several repeated (or substantially the same) comments from the same individual(s). Please note that this is a summary of the assessment of public comment: the full assessment can be found on the Board's website at wcb.ny.gov.

The Board plans to update the fee schedules more regularly going forward and will take a more comprehensive look at reimbursement rates in the next editions of the fee schedule as well. Many of the comments requested changes to the conversion factors and fees generally to reflect increases in inflation and cost-of-living among other factors. No changes have been made to the conversion factors and no cost-of-living increase to the fee schedules as a whole have been included based on these comments. However, this is the first of several intended updates to the fee schedule and the Board plans to address other areas of the fee schedule in future proposals where fees are lagging behind, and to look holistically at the fee structures. The Board invites those who submitted comments to provide supporting data and suggested alternatives to support their requested changes for future editions of the fee schedules.

In response to the comments received, and to avoid any inadvertent reductions to the fee schedule, the Board now proposes that the CPT code set for Behavioral Health (BH) will remain the same as the currently published 2020 Behavioral Health Fee Schedule, using 2018 CPT code sets. However, the BH fee schedule has been refreshed to reflect current WCB regulations, and also to provide clarifications of existing ground rules.

Many other comments expressed disagreement with some of the proposed "changes" to the fee schedules, but in reality many of these comments opined on "changes" that already existed in the fee schedule, so no change was made in response to these comments.

Two comments pointed out that the Board changed CPT code 95999 from 0 RVU to BR. This was a typographical error and the Board has corrected it for the revised proposal.

The fee schedules contained language about payment for deposition testimony. Recognizing that procedures and fees for deposition testimony are addressed elsewhere in the regulations, and to avoid conflict with those regulations, the Board has removed the text about depositions and instead kept only the reference to the relevant regulation to ensure that the fee schedules do not become out of sync with the regulations about depositions.

One comment requested clarification about the effective date of the medical fee schedules because the draft has a January 1, 2026, date in some places. The January 1, 2026, date was just a placeholder and the proposal will be updated with the actual effective date when the proposal is adopted.

Changes made:

- Change CPT code 95999 from "BR" back to "0" as this was not an intended change (see page 25 of the Chiropractic Fee Schedule)

- Clarifying language added to ground rules specifying provider types throughout the fee schedules
- Updating effective date throughout the fee schedules (placeholder of “TBD” for now) –
- Deposition language throughout fee schedules changed to become evergreen (referencing the regulation where deposition fees and processes are contained) – (see page 9 of the Chiropractic Fee Schedule, page 10 of the Podiatry Fee Schedule, page 9 of the Behavioral Health Fee Schedule, page 12 of the Medical Fee Schedule)
- Reverting the Behavioral Health fee schedule to the current existing fee schedule (removing proposed changes from the first proposal), see pages 7-10, 12, 14-16, 17-18