



Training Bulletin

Provisional Payment of Medical Benefits From the Office of Medical/Rehabilitation Services Maine Workers' Compensation Board

39-A M.R.S.A. §222 allows for the provisional payment of medical benefits by a health carrier (includes Medicare and MaineCare) in order to ease the financial burden on injured employees whose workers' compensation claims are controverted and who are awaiting board determinations on their claims. References: 39-A M.R.S.A. §§ 222, 324; Board rules chapters 5 and 12; Bureau of Insurance (BOI) rules chapter 530.

Notice to Employee/Employee Representative

- **Attach bills to the petition for payment of medical and related services** (not statements, not reports, etc.) It is helpful, though not required, if the petitioner indicates which bills, if any, were paid provisionally by a health carrier. See Board rules chapter 12, section 2.
- “If the workers’ compensation carrier makes any payment directly to the employee or health care provider within the meaning of 39-A M.R.S.A. § 206, rather than to the health carrier, while a notice of offset is in effect, the full amount of that payment shall be considered an obligation to the employee, and the appropriate reimbursement to the health carrier shall be due immediately from the workers’ compensation carrier. **Any resulting overpayment may be recovered from the employee by the workers’ compensation carrier once the health carrier has been paid**” (BOI rules chapter 530, section 5.C.). Note: Medicare and MaineCare have a statutory offset right.

Notice to Health Care Provider

- Health care providers must at the written request of the employee or the employee’s representative **furnish copies of any written information (may include billing records)** pertaining to a claimed workers’ compensation injury or disease **within 10 days of a written request** regardless of whether the claimed injury or disease is denied. See Board rules chapter 5, section 1.08(5).
- After an approved agreement for payment of compensation or after any order or decision of the board awarding compensation, **payments must be made within 10 days.**
 - ✓ If there is **no notice of offset in effect** then the workers’ compensation carrier makes **payments directly to the health care providers** in accordance with the Maine Workers’ Compensation fee schedule. **The health care provider is responsible to reimburse the health carrier the amounts paid to the provider on a provisional basis.**
 - ✓ If there is a **notice of offset in effect**, the workers’ compensation carrier is obligated to reimburse the health carrier until the amount requested has been paid in full. **Any balance due per the Maine Workers’ Compensation fee schedule must be paid directly to the provider.**

Contacts:

Paul H. Sighinolfi
Executive Director/Chair
207.287.7107
Paul.Sighinolfi@maine.gov

Kimberlee Barriere
Deputy Director
207.441.9082
Kimberlee.Barriere@maine.gov



Training Bulletin

Provisional Payment of Medical Benefits From the Office of Medical/Rehabilitation Services Maine Workers' Compensation Board

39-A M.R.S.A. §222 allows for the provisional payment of medical benefits by a health carrier (includes Medicare and MaineCare) in order to ease the financial burden on injured employees whose workers' compensation claims are controverted and who are awaiting board determinations on their claims. References: 39-A M.R.S.A. §§ 222, 324; Board rules chapters 5 and 12; Bureau of Insurance (BOI) rules chapter 530.

Notice to Employer/Insurer Representative

- The employer or insurance carrier shall **make compensation payments within 10 days** after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation unless it was prevented from complying because of circumstances beyond its control. An employer/insurer that does not have, after attempting to obtain it, billing information specified in chapter 5, section 1.06(1) may be able to argue it was prevented from making timely payment due to a circumstance beyond its control.
 - ✓ If there is **no notice of offset in effect** then the workers' compensation carrier makes **payments directly to the health care providers** in accordance with the Maine Workers' Compensation fee schedule.
 - ✓ "If there is a **notice of offset in effect**, the workers' compensation carrier is obligated to **reimburse the health carrier** in such amounts and at such times as it would otherwise be obligated to pay the employee, until the amount requested, reduced by any amount the health carrier has not yet paid or has already sought to recover directly from the employee, has been paid in full" (BOI rules chapter 530, Section 5.B.). This means the workers' compensation carrier must reimburse the health carrier directly. **Any balance due per the Maine Workers' Compensation fee schedule must be paid to the provider** as the workers' compensation carrier is liable for the full fee schedule amount when a case is determined to be work-related. Note: Medicare and MaineCare have a statutory offset right. It is the responsibility of the employer/insurer to ensure compliance with Medicare and MaineCare secondary payer laws/requirements.
- If the board enters a decision awarding compensation, and a motion for findings of fact and conclusions of law is filed with the administrative law judge or an appeal is filed with the division pursuant to section 321-B or the Law Court pursuant to section 322, **payments may not be suspended while the motion for findings of fact and conclusions of law or appeal is pending.**
- The board may assess a **fine of up to \$200 for each day of noncompliance** against an employer or insurance carrier who fails to pay compensation within 10 days. If the board finds that the employer or insurance carrier was prevented from complying with this section because of circumstances beyond its control, a fine may not be assessed. **Best practice is to have all medical bills repriced in accordance with the Maine Workers' Compensation fee schedule while awaiting a Board determination.**

Contacts:

Paul H. Sighinolfi
Executive Director/Chair
207.287.7107
Paul.Sighinolfi@maine.gov

Kimberlee Barriere
Deputy Director
207.441.9082
Kimberlee.Barriere@maine.gov