



MEDICAL SOCIETY OF THE STATE OF NEW YORK

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Division of Socio-Medical Economics

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Regulations@wcb.ny.gov

Dear Sir or Madam,

On behalf of all of the members of the MSSNY Committee of Workers' Compensation and No-Fault Insurance, we wish to take this opportunity to voice our significant concerns regarding specific aspects of the proposed revision of the Official NYWC Medical Fee Schedule.

Specifically, the Committee strongly urges the WCB to reconsider the section of the proposed changes to the Medical Fee Schedule which will lead to new relative values for the performance of electrodiagnostic testing, including electromyography (EMG) and nerve conduction studies (NCS).

Our calculations indicate that should the new relative values be instituted, this will lead to an estimated 50-60% reduction in the fees paid to physicians as compared to the current fee schedule, one in which physicians have been paid the same fees for EMG/NCS studies since 1996, without any increase in over more than two decades.

MSSNY agreed to a 5% across the board increase in the Medical Fee Schedule solely for this year, because our staff was reassured by the WCB staff comments to us that the new physician fee schedule would **not** lead to any reduction in fees paid to physicians within **any** physician specialty.

The role of our committee has always been to advocate for the practice of medicine as a whole, regardless of what specialty might be affected. Beyond the obvious concern of a 50-60% fee schedule reduction for the performance of EMG/NCS studies, we must also keep in mind that MSSNY has long opposed the inclusion of a variety of diagnostic services/procedures in diagnostic networks. It should be noted the last diagnostic study to be included in the WCB diagnostic network program was EMG/NCS testing, over our strong opposition, which occurred shortly after we were granted an increase in E&M code fees for the first time since 1996.

Under diagnostic network guidelines, the WCB has permitted carriers to create diagnostic networks which require that physicians contract with third party vendors such as OneCall, who then require physicians to sign contracts requiring them to accept a 30% reduction in the standard fee schedule in order to be allowed to perform EMG/NCS studies. If physicians are asked to take that same 30% diagnostic network fee schedule reduction on top of a marked reduction in the proposed fee schedule, this is both grossly unfair and not financially viable for our members, who cannot and should not be required to accept only 10-20% of what they have been paid since 1996 for the same diagnostic study. There is no other provider in any other health care specialty who is being made to suffer in such a manner, whether within the WCB system, under commercial insurance, or within Medicare/Medicaid.

Under the new fee schedule proposal, this fee reduction, even without any additional diagnostic network discounts, will surely drive out many of the honest, skilled, and experienced board certified specialists in PM&R and neurology who the WCB "recommends and prefers" to perform this testing, which will leave only those providers whose limited skill and experience, and willingness to accept drastically reduced fees, to perform this type of diagnostic testing, the results of which directly impacts future medical costs and the establishment of permanent impairment ratings.

The MSSNY Committee of Workers Compensation and No-Fault Insurance urges the WCB to consider that these fee reductions will most likely lead to a severe reduction in quality of care provided to injured workers, and will further drive authorized physicians out of the system. This could easily result in decreased access to medical care by injured workers on a statewide basis, which is undesirable for all parties.

On that basis, MSSNY recommends one of two options:

1. Keep the currently utilized 2012 diagnostic codes and related RVUs based on the stated assurance that no physicians in any specialty would be subjected to any fee schedule reductions
2. Revise the proposed RVUs for EMG/NCS studies so that there is a consistency with the 5% fee schedule increase to be provided for all other diagnostic studies and therapeutic procedures

Lastly, and certainly not least, MSSNY urges the Board to ensure EMG/NCS testing is no longer subject to any and all diagnostic network requirements, including the abolishment of any diagnostic network required reductions in payments made to the physicians who perform these studies.

Sincerely,

Members of the MSSNY Committee on Workers Compensation and No Fault Insurance