

5221.0500 EXCESSIVE CHARGES; LIMITATION OF PAYER LIABILITY.

Subpart 1. **Excessive health care provider charges.** A billing charge for services, articles, or supplies provided to an employee with a compensable injury is excessive if any of the conditions in items A to I apply to the charge. A payer is not liable for a charge which meets any of these conditions.

A. the charge wholly or partially duplicates another charge for the same service, article, or supply, such that the charge has been paid or will be paid in response to another billing; or

B. the charge exceeds the provider's current usual and customary charge, as specified in subpart 2, item B, for the same or similar service, article, or supply in cases unrelated to workers' compensation injuries; or

C. the charge is described by a billing code that does not accurately reflect the actual service provided; or

D. the service does not comply with the treatment standards and requirements adopted under Minnesota Statutes, section 176.83, subdivision 5, concerning the reasonableness and necessity, quality, coordination, level, duration, frequency, and cost of services; or

E. the service was performed by a provider prohibited from receiving reimbursement under Minnesota Statutes, chapter 176, pursuant to Minnesota Statutes, sections 176.83, 176.103, 176.1351, and 256B.0644; or

F. the service, article, or supply is not usual, customary, and reasonably required for the cure or relief of the effects of a compensable injury or is provided at a level, duration, or frequency that is excessive, based on accepted medical standards for quality health care and accepted rehabilitation standards under Minnesota Statutes, section 176.136, subdivision 2, clause (2); or

G. the service, article, or supply was delivered in violation of the federal Medicare anti-kickback statutes and regulations as specified in part 5221.0700, subpart 1a; or

H. where approval for a change of doctor is required by part 5221.0430 for the provider submitting the charge, and approval has not been obtained from the payer, commissioner, or compensation judge; or

I. the service is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition, under Minnesota Statutes, section 176.136, subdivision 2, clause (3).

Subp. 2. **Limitation of payer liability.** A payer is not liable for health care charges which are excessive under subpart 1. If the charges are not excessive under subpart 1, a payer's liability for payment of charges is limited as provided in items A to F.

A. If the medical fee schedule applies to the service according to part 5221.4005, subpart 3, the payer's liability shall be limited to the maximum amount allowed for any service, article, or supply in the medical fee schedule in effect on the date of the service, or the provider's usual and customary fee, whichever is lower.

B. Except as provided in items C to F, if the maximum fee for service, article, or supply is not limited by parts 5221.4000 to 5221.4070, the payer's liability for payment shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charge for similar treatment, articles, or supplies furnished to an injured person when paid for by the injured person, whichever is lower.

(1) A usual and customary charge under Minnesota Statutes, section 176.136, subdivision 1b, paragraphs (a) and (b), means the amount actually billed by the health care provider to all payers for the same service, whether under workers' compensation or not, and regardless of the amount actually reimbursed under a contract or government payment system.

(2) A prevailing charge under Minnesota Statutes, section 176.136, subdivision 1b, paragraph (b), is the 75th percentile of the usual and customary charges as defined in subitem (1) in the previous calendar year for each service, article, or supply if the database for the service meets all of the following criteria:

(a) the database includes only Minnesota providers, with at least three different, identifiable providers of the same provider type, distinguished by whether the service is an inpatient hospital service, or an outpatient physician, pathology, laboratory, chiropractic, physical therapy or occupational therapy service, or provider of other similar service, article, or supply;

(b) there are at least 20 billings for the service, article, or supply; and

(c) the standard deviation is less than or equal to 50 percent of the mean of the billings for each service in the data base or the value of the 75th percentile is not greater than or equal to three times the value of the 25th percentile of the billings.

C. Under Minnesota Statutes, section 176.136, subdivision 1b, paragraph (a), payment for services, articles, and supplies provided to an employee while an inpatient or outpatient at a hospital with 100 or fewer licensed beds shall be 100 percent of the usual and customary charge as defined in item B, unless the charge is determined by the commissioner or compensation judge to be unreasonably excessive. The payer's liability for services provided by a nursing home that participates in the medical assistance program shall be the rate established by the commissioner of human services.

D. Under Minnesota Statutes, section 176.136, subdivision 1b, paragraph (b), payment for services, articles, and supplies provided to an employee who is an inpatient at a hospital with more than 100 licensed beds shall be limited to 85 percent of the hospital's usual and customary charge as defined in item B, or 85 percent of the prevailing charge as defined in item B, whichever is lower. Outpatient charges for hospitals with more than 100 beds are limited by the maximum fees for any service set forth in parts 5221.4000 to 5221.4070. For hospitals with more than 100 beds, liability for outpatient charges that are not included in parts 5221.4000 to 5221.4070 is limited to 85 percent of the hospital's usual and customary, or prevailing charge, as described in item B. A hospital charge is considered an inpatient charge if the employee spent either the night before or the night after the service in the hospital, and there is an overnight room charge.

E. Charges for cost of copies of medical records and postage are governed by parts 5219.0100 to 5219.0300 and are not subject to the 85 percent reimbursement limit specified in item B. Travel expenses incurred by an employee for compensable medical services shall be paid at the rate equal to the rate paid by the employer for ordinary business travel expenses, or the rate paid by the state of Minnesota under the commissioner's plan for employment-related travel, whichever is lower. Reimbursement for employee travel expenses is not subject to the 85 percent reimbursement limit specified in item B.

F. Charges for supplementary reports that are not required reports under part 5221.0410, subpart 7, and charges for return to work services under part 5221.0420, subpart 3, are not subject to the 85 percent reimbursement limit specified in item B.

Subp. 3. **Collection of excessive charges.** A provider may not collect or attempt to collect payment from an injured employee, or any other source, charges for a compensable injury which the payer has determined are excessive under subpart 1 or which exceed the maximum amount payable specified in subpart 2, unless payment is ordered by the commissioner, compensation judge, or Workers' Compensation Court of Appeals. Unless the provider or the employee has filed a claim for a determination of the amount payable with the commissioner, the health care provider must remove the charges from the billing statement. If a dispute exists as to whether an employee's injury is compensable under Minnesota Statutes, chapter 176, and the employee has general health insurance, payment of medical bills is governed by Minnesota Statutes, section 176.191, subdivision 3.

Statutory Authority: *MS s 14.38; 14.386; 14.388; 175.171; 176.101; 176.135; 176.1351; 176.136; 176.231; 176.83*

History: *9 SR 601; 13 SR 2609; 18 SR 1472; 25 SR 1142; 38 SR 306*

Published Electronically: *September 17, 2013*