

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Department of Labor
Rule No. 480-5-5-.02
Rule Title: Definitions
_____ New Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? _____ NO _____

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? _____ NO _____

Is there another, less restrictive method of regulation available that could adequately protect the public? _____ NO _____

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? _____ NO _____

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? _____ NO _____

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ YES _____

Does the proposed rule have an economic impact? _____ NO _____

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer /s/ Stephen McCormick

Date 12-14-15

(DATE FILED)
(STAMP)

Department of
Labor

NOTICE OF INTENDED ACTION

AGENCY NAME: DEPARTMENT OF LABOR

RULE NO. & TITLE: 480-5-5-.02 Definitions

INTENDED ACTION: Amended rule

SUBSTANCE OF PROPOSED ACTION: The adoption is necessary to update the worker's compensation administrative code section to be consistent with the diagnostic code change from ICD-9 to ICD-10.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments in writing to Stephen McCormick, Department of Labor, 649 Monroe Street, Montgomery, Alabama 36131 by mail or in person between the hours of 8:00 am and 4:30 pm, Monday through Friday until and including February 08, 2016. Persons wishing to submit data, views or arguments orally should contact Stephen McCormick by telephone at (334) 242-8274 during this period to arrange an appointment.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE February 08, 2016

CONTACT PERSON AT AGENCY:

Stephen McCormick
Department of Labor
649 Monroe Street
Montgomery, AL 36131
Telephone: (334) 242-8274

Stephen McCormick
Director, Governmental Affairs

**ALABAMA DEPARTMENT OF LABOR
WORKERS' COMPENSATION
ADMINISTRATIVE CODE**

CHAPTER 480-5-5

UTILIZATION MANAGEMENT AND BILL SCREENING

480-5-5-.02 Definitions. When used in these rules, the following words and phrases shall have the following meanings:

(1) **Accident** - The term, as used in the phrases "personal injuries due to accident" or "injuries or death caused by accident," shall be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time, injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

(2) **Adjudication** - The review of claims to apply prevailing rules that adjust reimbursements for the amount of work required when multiple procedures are performed at the same time; when assisting surgeons are present, to eliminate duplicate billing from the unbending of global fees; and to adjust for the most commonly occurring method adopted for total reimbursement.

(3) **Adjudicator** - An individual, entity or agent that is responsible for adjudication.

(4) **Admission Review** - The initial review after hospitalization of the medical necessity and appropriateness of hospital admission.

(5) **Advanced Life Support (LAS)** - The treatment of potentially life-threatening medical emergencies through the use of invasive medical techniques specified as advanced life support techniques in the applicable rules, which ordinarily would be performed or provided by physicians, but which may be performed by emergency medical technicians pursuant to these rules.

(6) **Agent** - An individual responsible for the administration of a workers' compensation claim for an employer.

(7) **Ambulance** - A vehicle specifically designed and equipped for transporting the wounded, injured, ill, or sick. Workers' Compensation recognizes three levels of ambulance services: Basic Life Support (BLS), Advanced Life Support (ALS), and Non-emergency Ambulance Transportation.

(8) **Ambulatory Review** - The review of the medical

necessity and appropriateness of medical services rendered in a non-inpatient setting.

(9) **Ambulatory Surgical Center** - A facility licensed as an ambulatory surgical center that has as its primary purpose the provision of elective surgical care.

(10) **Appeals Process** - A system or systems providing for any aggrieved party to contest an adverse decision relative to utilization review and bill screening by an adjudicator, employer, carrier or agent.

(11) **Average Wholesale Price (AWP)** - The AWP is the amount, which includes cost, tax, shipping, and handling.

(12) **Basic Life Support (BLS)** - A level of pre-hospital care involving non-invasive life support measures.

(13) **Bill Screening** - The evaluation and adjudication of provider bills for appropriateness of reimbursement relative to medical necessity and prevailing rates of reimbursement, duplicate charges, unbundling of charges, relativeness of services to injury or illness, necessity of assistant surgeons, adjudication of multiple procedures, number of modalities, global procedures, and any other prevailing adjudication issues that may apply.

(14) **Clinical Criteria** - Any prevailing and generally accepted medical policies, rules, medical protocols, guides and standards which may include, but are not limited to, criteria set out in the Intensity/Severity/Discharge Manual; the nomenclature and rules set out in the latest edition of Physicians' Current Procedural Terminology (CPT-4) publication; the nomenclature and rules set out in the latest edition of International Classification of Diseases; the nomenclature and rules set out in the latest edition of the American Society of Anesthesiologist Relative Value Guide; rules and nomenclature set out in the latest edition of Global Service Data for Orthopedic Surgery published by the American Academy of Orthopedic Surgeons; criteria established by the Commission on Accreditation of Rehabilitation Facilities (CARF); rules, nomenclature and standards established by the National Association of Rehabilitation Professionals in the Private Sector (NARPPS); rules, nomenclature and standards established by the latest edition of the Health Care Finance Administration Common Procedure Coding Systems (HCPCS); rules and criteria as described in the Professional Activity Study; and prevailing rules, nomenclature and standards established by peer review committees established by medical provider associations used by the utilization review entity to determine certification of medical services; or any other professional groups as recognized by the Alabama Workers' Compensation Medical Services Board.

(15) **Clinical Review** - An objective, analytical review of the medical findings and records.

(16) **Commission on Accreditation of Rehabilitation Facilities (CARF)** - A national, private, nonprofit organization that sets standards of quality and provides accreditation for each specific rehabilitation program for organizations serving persons with disabilities.

(17) **Compensation** - The money benefits to be paid on account of injury or death, as provided in [Articles 3 and 4 of the Alabama Workers' Compensation Law], Code of Ala. 1975, §§25-5-50 to 25-5-123. The recovery which an employee may receive by action at law under [Article 2 of the Alabama Workers' Compensation Law] Code of Ala. 1975, §§25-5-30 to 25-5-36 is termed "recovery of civil damages," as provided for in Code of Ala. 1975, §§25-5-31 and 25-5-34. "Compensation" does not include medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury.

(18) **Continued Stay Review** - The review of an ongoing inpatient hospitalization to assure the most appropriate setting for the care being rendered, sometimes called concurrent review.

(19) **Core Team** - A group of professionals providing interdisciplinary coordination of services for a specific program within a facility. The members are expected to provide therapeutic, educational and training services consistent with the requirements of CARF standards and the individualized needs of the clients served.

(20) **Current Dental Terminology (CDT-2) or the most current revision** - A listing of descriptive terms and identifying codes published by the American Dental Association for reporting dental services and procedures.

(21) **Department** - The Alabama Department of Industrial Relations.

(22) **Dictionary of Occupational Titles (DOT)** - Publication by the U.S. Department of Labor that sets out job descriptions and other related information pertaining to specific jobs.

(23) **Discharge Planning** - The process of assessing and facilitating the need for medically appropriate services and resources as related to the compensable injury after hospitalization to effect an appropriate and timely discharge.

(24) **Elective Surgery** - Approved surgery which is medically necessary, yet non-emergency in nature, but which may

be performed at a later date.

(25) **Emergency Hospitalization** - Inpatient services provided after the sudden onset of a medical condition manifested by symptoms of sufficient severity (which may include, but not be limited to, severe pain), which, in the absence of continued inpatient medical attention, could reasonably be expected by an appropriate health care professional to result in placing the claimant's life in serious jeopardy, serious impairment to bodily function, or serious dysfunction of any bodily organ or part.

(26) **Emergency Services** - Medical services provided after the onset of a medical condition manifested by symptoms of sufficient severity (which may include, but not be limited to, severe pain), which, in the absence of immediate medical attention, could be expected by an ordinary reasonable person to result in placing the claimant's life in jeopardy, impairment to bodily functions, or dysfunction of any bodily organ or part.

(27) **Employer** - Every person who employs another to perform a service for hire and pays wages directly to the person. The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, the insurer being entitled to the employer's rights, immunities, and remedies under the Alabama Workers' Compensation Law, as far as applicable. The inclusion of an employer's insurer within the term shall not provide the insurer with immunity from liability to an injured employee, or his or her dependent in the case of death to whom the insurer would otherwise be subject to liability under Code of Ala. 1975, §25-5-11. Notwithstanding the provisions of the Alabama Workers' Compensation Law, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the "employer" of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to the common carrier.

(28) **Employee or Worker** - The terms are used interchangeably, have the same meaning throughout the Alabama Workers' Compensation Law, and shall be construed to mean the same. The terms include the plural and all ages and both sexes. The terms include every person in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of this state, and also including all employees of Tannehill Furnace and Foundry Commission.

(29) **Functional Capacity Evaluation (FCE)** - Process to evaluate the injured worker's functional and/or vocational status.

(30) **Generally Accepted Criteria** - Written criteria used by clinical reviewers, which may include but are not limited to, ICD910, ISD, PAS, Milliam and Robertson (M&R) and Health Care Insurance Association (HCIA) Publications.

(31) **Global Charge Concept** - One charge covering the professional services and usual associated services necessary to perform the basic approved program or procedure.

(32) **Global Service Data for Orthopedic Surgery (GSDOS) or most current revision** - Publication by the American Academy of Orthopedic Surgeons which outlines services that are appropriate for inclusion and/or exclusion from the intraoperative component of the global service package.

(33) **Global Surgery Procedure** - A global service is a primary procedure that has specific related components that are identified as being inclusive within the already established primary procedure. Fee unbundling occurs when the charge for a specific procedure remains the same, but one or more components of the procedure are separated from the global service package and given a separate additional fee.

(34) **Healthcare Finance Administration Common Procedure Coding System (HCPCS) or most current revision** - Includes CPT-4 descriptive terms and numeric identifying codes and modifiers for reporting medical services and procedures and other materials contained in the CPT-4. HCPCS is designed to promote uniform medical services reporting and statistical data collection.

(35) **Hospital** - A hospital, ambulatory surgical center, outpatient rehabilitation center licensed by the State of Alabama, and diagnostic facilities accredited by the Commission on Accreditation of Rehabilitation Facilities. Rule 480-5-5-.19 addresses outpatient rehabilitation centers, Rule 480-5-5-.20 applies to hospitals, and Rule 480-5-5-.26 applies to free standing ambulatory surgery centers.

(36) **Independent Medical Examination (IME)** - An independent assessment of an injured workers' physical condition and/or bodily functions that is performed by a non-treating physician at the request of the employer/agent or employee. The non-treating physician shall not be the individual's family physician or a physician who is currently or has previously treated the individual for the same complaint. The IME differs from an impairment rating in that no impairment rating is given. The IME differs from a second opinion in that this examination is not a confirmatory evaluation. The party requesting the IME shall be the responsible party for payment of this service.

(37) **Injury** - "Injury and personal injury" shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except

for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include physical injury caused either by carpal tunnel syndrome disorder or by other cumulative trauma disorder if either disorder arises out of and in the course of the employment, and breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

(38) **Injuries By An Accident Arising Out Of And In The Course Of The Employment** - Without otherwise affecting either the meaning or interpretation of the clause, the clause does not cover workers except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of service at the time of the accident and during the hours of service as workers.

(39) **Inpatient Admissions** - Medically necessary services provided to a registered bed patient in a hospital for more than 23 hours.

(40) **Intensity/Severity/Discharge Manual (ISD Manual) or most current revision** - Published by Internal, this manual provides the criteria for inpatient admission to hospitals.

(41) **Interdisciplinary** - An approach to client management which requires the integration of a core team from multiple disciplines which, on an ongoing basis, assesses, plans and implements a complex rehabilitation program for functional restoration. It does not mean an approach wherein multiple disciplines are available as needed but function independently of one another to address isolated, clearly defined problems.

(42) **International Classification of Diseases 9th Edition (ICD-910CM) or most current revisions** - A system of diagnostic coding which identifies and precisely delineates the clinical condition of patients.

(43) **Maximum Fee Schedule (MFS) or most current revision** - The prevailing reimbursement as published in the current Alabama Workers' Compensation Maximum Fee Schedule according to provider type.

(44) **Medical Case Management** - The process of assessing, planning, implementing, coordinating, monitoring and evaluating the services required to respond to an employee's

health care needs to attain the goals of quality and cost effective care. Case Management is not intended as a substitute for utilization review and medical necessity determinations under these rules and case managers are not permitted to deviate from or alter a medical regimen ordered by a treating physician.

(45) **Medical Dispute Resolution** - Review by an Ombudsman of medical services that are provided or for which authorization of payment is sought, as defined in Code of Ala. 1975, §25-5-77(i).

(46) **Medical Necessity** - Services or supplies which are medically necessary to treat the work related illness or injury. To be medically necessary, services and supplies shall meet the following criteria: be consistent with the diagnosis and treatment of the work related illness or injury; be consistent with the standard of care for good medical practice; not be solely for the convenience of the patient, family, hospital, physician or other provider; be in the most appropriate and cost effective medical care setting as determined by the patient's condition; and have scientifically established medical value.

(47) **Medical Services** - All medical services, treatments, surgeries, procedures, equipment, or supplies provided by a provider to an authorized compensable workers' compensation injured worker.

(48) **Modifier** - A modifier provides the means by which the reporting provider can indicate that a service or procedure that has been performed has been altered by some specific circumstance but without changes in its definition or code. The judicious application of modifiers obviates the necessity for separate procedure listings that may describe the modifying circumstance. Modifiers may be used to indicate to the recipient of a report that: a service or procedure has both a professional and technical component; a service or procedure was performed by more than one provider and/or in more than one location; a service or procedure has been increased or reduced; only part of a service was performed; an adjunctive service was performed; a bilateral procedure was performed; a service or procedure was provided more than once; or unusual events occurred.

(49) **National Association of Rehabilitation Providers in the Private Sector (NARPPS)** - A national association dedicated to enhancing the competency of private rehabilitation professionals, advancing the professional field, improving the effectiveness of state level affiliates, and leading in the resolution of public policy issues that affect private sector rehabilitation.

(50) **National Council for Prescription Drug Programs (NCPDP)** - An association of pharmacists and third-party

administrators whose purpose is to standardize electronic claim filing and adjudication.

(51) **Non-emergency Ambulance Transportation** - Non-emergency transport of patients in a recumbent position who require transportation to or from a physician's office, hospital, other health care facility, or residence. This shall not include a hospital operated vehicle used exclusively for intra-hospital facility transfers.

(52) **Ombudsman** - An individual who assists injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and obtaining information available under the workers' compensation law.

(53) **Outpatient Procedures and** - Medically necessary services provided to a patient who is not a registered bed patient and who does not remain in a hospital setting for more than 23 hours.

(54) **Pain Management Program** - A program to reduce pain, improve function and decrease the dependence on the health care system by persons with chronic pain that interferes with physical, psychosocial and vocational functioning through the provision of coordinated, goal oriented, interdisciplinary team services.

(55) **Participating and Nonparticipating Hospitals** - Participating hospitals are those hospitals that have a negotiated rate of reimbursement or payment with the Department of Industrial Relations. "Nonparticipating hospitals" means those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

(56) **Payer** - The employer, carrier, self-insured employer, group self-insured fund, or agent responsible for determining compensability and making payment for medical services provided injured workers.

(57) **Peer** - A provider who is board certified in the same or similar specialty approved by the American Board of Medical Specialists for Physicians or the Advisory Board of Osteopathic Specialists for Osteopaths from the major areas of clinical services or a physician who normally treats that type of case as the ordering provider whose medical services are being reviewed, or for non-physician clinical peers, the recognized professional board for their specialty.

(58) **Physician** - For the purposes of providing services and treatment under the Alabama Workers' Compensation Law, Code of Ala. 1975, §25-5-77, physician shall mean medical doctor, surgeon, and chiropractor. For the purposes of oversight for

services rendered pursuant to the Alabama Workers' Compensation Law set forth in and other functions required by Article 12 of the Alabama Workers' Compensation Law found in Code of Ala. 1975, §§25-5-310 through 25-5-315, physician shall mean a doctor of medicine or doctor of osteopathy licensed to practice medicine.

(59) **Physicians' Current Procedural Terminology 4th Edition (CPT-4) or most current revision** - A listing of descriptive terms and identifying codes published by the American Medical Association for reporting medical services and procedures.

(60) **Pre-certification Review** - The review and assessment of the medical necessity and appropriateness of services before they occur. The appropriateness of the site or level of care is assessed along with the timing, duration and cost effectiveness of the proposed services.

(61) **Prevailing** - The most commonly occurring reimbursements for medical services other than those provided by federal and state programs for the elderly (Medicare) and economically disadvantaged (Medicaid). "Prevailing" shall include not only amounts per procedure code, but also commonly used adjudication rules as applied to multiple procedures, global procedures, use of assistant surgeons, and others as appropriate. For hospitals, "prevailing" rate of reimbursement or payment shall be established by the method contained in Code of Ala. 1975, §25-5-77.

(62) **Providers** - A medical clinic, pharmacist, dentist, chiropractor, psychologist, podiatrist, physical therapist, pharmaceutical supply company, rehabilitation service, other person or entity providing treatment, service, or equipment, or person or entity of providing facilities at which the employee receives treatment.

(63) **Retrospective Review** - A utilization review conducted after services have been provided to a patient.

(64) **Rule** - Alabama Department of Industrial Relations Administrative Code as adopted under the Alabama Administrative Procedure Act.

(65) **Singular and Plural** - Wherever the singular is used, the plural shall be included.

(66) **The Court** - The circuit court that would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question and "the judge" means a judge of that court.

(67) **Utilization Management** - A comprehensive set of integrated components including: pre-certification review,

admission review, continued stay review, retrospective review, discharge planning, bill screening and individual medical case management as required.

(68) **Utilization Review (OUR)** - The determination of medical necessity for medical and surgical in-hospital, outpatient, and alternative setting treatments for acute and rehabilitation care. It includes pre-certification for elective treatments. Concurrent review and, if necessary, retrospective review are required for emergency cases.

(69) **Utilization Review Accreditation Commission (URIC)**
- A national, nonprofit, organization established to encourage efficient and effective utilization review processes and to provide a method of evaluation and accreditation for utilization review programs.

(70) **Utilization Review Entity (RUE)** - A private utilization review vendor, a carrier or its affiliate, a self-insured employer, a third-party administrator, or a group fund that provides utilization review.

(71) **Work Conditioning** - A work related, intensive, goal-oriented treatment program specifically designed to restore an individual's systemic, neuro-musculo-skeletal (strength, endurance, movement, flexibility, and motor control), and cardiopulmonary functions. The objective of the work conditioning program is to restore the client's physical capacity and function so the client can return to work.

(72) **Work Hardening Program** - A highly structured, goal oriented and individualized program that provides transition between acute care and return to work while addressing the issues of productivity, safety, physical tolerance and worker behavior.

(73) **Working Days** - Shall mean Monday through Friday; however, not including legal holidays. In computing any period of time prescribed or allowed by these Rules, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. As used in these Rules, "legal holiday" includes New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or as prescribed in Code of Ala. 1975, §1-3-8.

Author: Workers Compensation Medical Services Board

Statutory Authority: Code of Ala. 1975, §25-5-293.

History: New Rule: Filed August 9, 1996; effective September 13, 1996. **Amended:** Filed July 14, 1997; effective August 18, 1997. **Amended:** Filed August 31, 1998; effective

October 5, 1998. **Amended:** Filed March 8, 2001; effective
April 12, 2001. **Amended:** Filed