

- W A R N I N G -

The Department of Labor, Workers' Compensation Division, has received numerous complaints that some payors are not reimbursing providers at the proper rate of payment in workers' compensation cases.

The Department of Labor is hereby warning all Workers' Compensation payors that the proper rate of reimbursement to providers is controlled by the applicable maximum fee schedules relating to specific providers, negotiated agreements or established rates relating to hospitals, unless otherwise specifically contractually agreed upon by the parties.

Failure by payors or their agents to make proper payments may result in penalties and sanctions as imposed by the Alabama Workers' Compensation law. The sanctions may include the following:

1. The review of a Self-Insurer's authorization to be self-insured in Alabama;
2. The review of a Group Fund's authorization to do business in Alabama;
3. The review of an Insurance Company's authorization to do business in Alabama;
4. The review of the status of a Third Party Administrator's approval by the Department of Labor to operate in Alabama.

Further, failure to pay the proper amount to providers could result in the following administrative action pursuant to Section 25-5-77(h):

(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form specified in Section 25-5-3. There shall be added to any undisputed medical invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance.

If the employer or insurer responsible for payment of the claim fails to add the additional 10 percent to the claim as required by this section, the person, firm, corporation, or partnership providing the medical service for which payment has been delayed beyond the period specified in this section may file a written complaint stating that fact with the director. Upon investigation, if the director determines that the facts stated in the complaint are true, then in that event the director shall order the employer or insurer to pay to the provider the amount of the claim and any applicable penalty, and in addition may assess a civil monetary penalty in amount not to exceed five hundred dollars (\$500) against

the employer or insurer, payment of which shall be made to the director within 30 days of the notice of assessment.

The issue of whether to pay according to the authorized rates or at another rate will not be considered by the Department of Labor to qualify as a "disputed" claim pursuant to Section 25-5-77(h). Frivolous reasons for disputing medical payments will not be tolerated by the Department of Labor.

Also, please be advised that Jimmy Evans, the Honorable Attorney General of the State of Alabama, has issued an opinion on the proper rate of reimbursement to physicians. In an opinion dated February 19, 1993, the Attorney General stated in pertinent part:

"It is the opinion of this office that the plain language of the Act supports but one conclusion; that is, that an employer's liability for medical services is limited to specific statutory maximums: ... (3) the maximum fee schedule described in Sections 42 through 47, Section 25-5-310, Code, for physicians services."

The Attorney General, therefore, concluded:

#### "CONCLUSION"

...Section 42 through 47 of the Act, now codified as Sections 25-5-310 through 25-5-315, Code of Alabama 1975, govern reimbursement of physicians licensed to practice medicine for medical services provided to employees entitled to workers' compensation benefits under Act No. 92-537, the Alabama Worker's Compensation Act. Other sections of the Act do not relate to the compensation of physicians which is controlled by the maximum fee schedule established by the Workers' Compensation Medical Services Board pursuant to Section 25-5-315, Code of Alabama 1975. A physician or other provider may agree to accept less than the fee established by law but cannot be compelled to do so." (emphasis supplied)

The Department of Labor, in enforcing the Workers' Compensation law and relying on said opinion, is warning all workers' compensation payors that the proper rate of reimbursement to physicians and other providers is controlled by the published Maximum Fee Schedules.

Therefore, please take all steps necessary to insure that the proper level of reimbursements are being made by you or your agent to physicians and other providers.