

PUBLIC NOTICE OF PROPOSED CHANGES TO THE RULES, REGULATIONS AND FEE SCHEDULE OF THE WYOMING WORKERS' COMPENSATION DIVISION

PUBLIC NOTICE IS HEREBY GIVEN that the Wyoming Workers' Compensation Division is proposing changes that will affect the Division's rules, regulations and fee schedule. These proposals include modifications to the *Wyoming Workers' Compensation Rules, Regulations and Fee Schedules*;

The Department is proposing to amend **Section 8 – Durable Medical Equipment (DME) and Section 25 – Prescribed Drugs and Pharmacy Services to Chapter 10 Miscellaneous Medical Protocols** to include the following:

Section 8 – DME Repair or Replacement. The title has been changed to Durable Medical Equipment.

This section has been updated for clarification for our claimants, for our providers and for the Division in providing durable medical equipment (DME) services. The Division has added a definition checklist for clarification, how durable medical equipment needs are medically determined, claimant responsibilities and warranty information. The definition was compiled after researching numerous references, including private insurance, hearing outcomes and Medicare/Medicaid. It also adds consistency in rules between the Department of Workforce Services (DWS) and the Department of Health.

Section 8. Durable Medical Equipment (DME). The limitations in this section are in addition to any other limitations or restrictions that may apply to the Division's rental or purchase of any physical item or apparatus as a benefit under the Act.

- (a) The Division will not rent or purchase or provide reimbursement for any physical item or apparatus for use by an injured employee unless there is proof that the item:
 - (i) is medically necessary for the documented compensable work injury;
 - (ii) is prescribed by a health care provider;
 - (iii) is the most cost effective method of meeting the medical need;
 - (iv) is not considered to be experimental or investigational;
 - (v) is designed to withstand repeated use in the home;
 - (vi) generally is not useful to a person in the absence of an illness or injury;
 - (vii) has primary purpose other than enhancing the personal comfort of the claimant or providing convenience for the claimant or caregiver;
 - (viii) is the type of item that is suitable and commonly provided for home use or mobility under employer provided health insurance coverage, Medicare or Medicaid; and,
 - (ix) generally has an expected lifetime of at least three (3) years.
- (b) The Division may choose to rent or purchase any physical item or apparatus depending on its assessment as to which option is most reasonable and cost effective.
- (c) DME Repair or Replacement. Requests for repair or replacement of equipment purchased by the Division shall be reviewed on an individual case-by-case basis. Approval will be dependent upon evidence the equipment was used in a safe and appropriate manner and, due to normal wear and tear, needs to be repaired or replaced. Evidence of improper use or abuse of

equipment may warrant denial of the repair or replacement of the equipment.

(d) An injured worker or claimant shall be responsible for reasonable care and maintenance of any physical item or apparatus provided.

(i) The Division may cover needed repairs and maintenance when a professional is required and the services are not covered under warranty within the warranty period.

(ii) Providers shall not bill for equipment, parts, or services covered under manufacturer warranty within the warranty period.

(iii) The Division may require a copy of a warranty from the provider to be submitted upon request.

Section 25 – Prescribed Drugs and Pharmacy Services – (c) – updated the year from 2018 to 2019 for the rule citation of Chapter 9 – Fee Schedules.

Minor formatting and grammatical corrections were also completed.

Written comments should be submitted to the following address by **August 24, 2020**.

Wyoming Workers' Compensation Division
ATTN: Administrator
5221 Yellowstone Road
Cheyenne, WY 82002
(307) 777-7672

Or via email to: marcia.price@wyo.gov

A public comment period will end at close of business on **August 24, 2020**.

Copies may be obtained by submitting a written request to the Division, with pre-payment by personal check or money order for the total number of copies requested; the fee for each copy is \$4.00. The proposed rules may be downloaded, free of charge, from the Department of Workforce Services (DWS) at:

<http://www.wyomingworkforce.org/news/publicnotices/>