

FILED WITH LRC  
TIME: 10:15 AM  
JUN 24 2022  
*Emily B Caudill*  
REGULATIONS COMPILER

1 LABOR CABINET

2 Department of Workers' Claims

3 (Amendment)

4 803 KAR 25:089. Workers' compensation medical fee schedule for physicians.

5 RELATES TO: KRS 342.0011(32), 342.019, 342.020, 342.035

6 STATUTORY AUTHORITY: KRS 342.020, 342.035(1), (4)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.035(1) requires the  
8 commissioner of the Department of Workers' Claims to promulgate administrative regulations to  
9 ensure that all fees, charges, and reimbursements for medical services under KRS Chapter 342 are  
10 limited to charges that are fair, current, and reasonable for similar treatment of injured persons in  
11 the same community for like services, where treatment is paid for by general health insurers. KRS  
12 342.035(4) requires the commissioner to promulgate an administrative regulation establishing the  
13 workers' compensation medical fee schedule for physicians. Pursuant to KRS 342.035, a schedule  
14 of fees is to be reviewed and updated, if appropriate, every two (2) years on July 1. This  
15 administrative regulation establishes the medical fee schedule for physicians.

16 Section 1. Definitions.

17 (1) "Medical fee schedule" means the 2022 Kentucky Workers' Compensation Schedule of  
18 Fees for Physicians [~~2020 Kentucky Workers' Compensation Schedule of Fees for Physicians~~].

1 (2) "Physician" is defined by KRS 342.0011(32).

2 Section 2. Services Covered.

3 (1) The medical fee schedule shall govern all medical services provided to injured  
4 employees by physicians under KRS Chapter 342.

5 (2) The medical fee schedule shall also apply to other health care or medical services  
6 providers to whom a listed CPT code is applicable unless:

7 (a) Another fee schedule of the Department of Workers' Claims applies;

8 (b) A lower fee is required by KRS 342.035 or a managed care plan approved by the  
9 commissioner pursuant to 803 KAR 25:110; or

10 (c) An insurance carrier, self-insured group, or self-insured employer has an agreement  
11 with a physician, medical bill vendor, or other medical provider to provide reimbursement of a  
12 medical bill at an amount lower than the medical fee schedule.

13 Section 3. Fee Computation.

14 (1) The appropriate fee for a procedure or item covered by the medical fee schedule shall  
15 be the Maximum Allowable Reimbursement (MAR) listed in the 2022 [2020] Kentucky Workers'  
16 Compensation Schedule of Fees for Physicians for those procedures or items for which a specific  
17 monetary amount is listed.

18 (2) Procedures Listed Without Specified Maximum Allowable Reimbursement Monetary  
19 Amount: The appropriate fee for a procedure or item for which no specific monetary amount is  
20 listed shall be determined and calculated in accordance with numerical paragraph six (6) of the  
21 General Instructions of the medical fee schedule unless more specific Ground Rules are applicable

1 to that service or item, in which case the fee shall be calculated in accordance with the applicable  
2 Ground Rules.

3 (3) The resulting fee shall be the maximum fee allowed for the service provided.

4 Section 4. (1) A physician or healthcare or medical services provider located outside the  
5 boundaries of Kentucky shall be deemed to have agreed to be subject to this administrative  
6 regulation if it treats a patient who is covered under KRS Chapter 342.

7 (2) Pursuant to KRS 342.035, medical fees due to an out-of-state physician or healthcare  
8 or medical services provider shall be calculated under the fee schedule in the same manner as for  
9 an in-state physician.

10 Section 5. Incorporation by Reference.

11 (1) "2022 Kentucky Workers' Compensation Schedule of Fees for Physicians", July 1, 2022  
12 Edition [~~2020 Kentucky Workers' Compensation Schedule of Fees for Physicians, July 1,~~  
13 ~~2020 Edition~~], is incorporated by reference.

14 (2) This material may be inspected, copied, or obtained, subject to applicable copyright  
15 law, at the Department of Workers' Claims, Mayo-Underwood Building 3rd Floor, 500 Mero  
16 Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify the Commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.



\_\_\_\_\_  
**Scott C. Wilhoit**  
**Commissioner of the Department of Workers' Claims**  
**Labor Cabinet**

6/21/2022

\_\_\_\_\_  
**Date**

CONTACT PERSON:

B. Dale Hamblin, Jr., Assistant General Counsel  
Workers' Claims Legal Division  
Mayo-Underwood Building, 3<sup>rd</sup> Floor  
500 Mero Street  
Frankfort, Kentucky 40601  
Telephone Number: (502) 782-4404  
Fax Number: (502) 564-0682  
[dale.hamblin@ky.gov](mailto:dale.hamblin@ky.gov)

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on September 28, at 10:00 a.m. (EDT) at the Department of Workers' Claims, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: B. Dale Hamblin, Jr.  
Assistant General Counsel  
Workers' Claims Legal Division  
Mayo-Underwood Building, 3<sup>rd</sup> Floor  
500 Mero Street  
Frankfort, Kentucky 40601  
Telephone Number: (502) 782-4404  
Fax Number: (502) 564-0681  
[Dale.Hamblin@ky.gov](mailto:Dale.Hamblin@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

803 KAR 25.089

Contact Person: B. Dale Hamblin, Jr.  
Phone: (502) 782-4404  
Email: [dale.hamblin@ky.gov](mailto:dale.hamblin@ky.gov)

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation incorporates the medical fee schedule for physicians and the requirements for using the fee schedule.

(b) The necessity of this administrative regulation:

Pursuant to KRS 342.035, the commissioner is required to promulgate an administrative regulation regarding fee schedules.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation incorporates the extensive fee schedule for physicians and requirements for the fee schedule.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It is imperative to have fee schedules to control the medical costs of the workers' compensation system. Injured employees should receive quality medical care and physicians should be appropriately paid.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The medical fee schedule has been updated and will be incorporated by reference.

(b) The necessity of the amendment to this administrative regulation:

KRS 342.035 requires the schedule of fees to be reviewed and updated every two (2) years, if appropriate.

(c) How the amendment conforms to the content of the authorizing statutes:

The schedule of fees has been appropriately updated to ensure that medical fees are fair, current, and reasonable for similar treatment in the same community for general health insurance payments.

(d) How the amendment will assist in the effective administration of the statutes:

The schedule of fees assists the workers' compensation program by updating fees for physicians to ensure injured workers get qualified and appropriate medical treatment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All physicians and medical providers providing services to injured workers pursuant to KRS Chapter 342, injured employees, insurance carriers, self-insurance groups, and self-insured employers and employers, third party administrators.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Insurance carriers, self-insured groups, self-insured employers, third party administrators, and medical providers must purchase the new schedule of fees to accurately bill and pay for medical services. Other parties to workers' compensation claims are only indirectly impacted by the new fee schedule.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Insurance carriers, self-insured groups, self-insured employers or third party administrators and medical providers can purchase the fee schedule book with disk for \$120 or the disk for \$60.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Medical providers will receive fair, current, and reasonable fees for services provided to injured workers. Injured workers will be treated by qualified medical providers.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The contract for reviewing and updating the physicians fee schedule is \$66,935.00. The cost to print is \$1,749.

(b) On a continuing basis: No continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation sets forth a current schedule of fees to be paid to physicians. Fees have been updated to be fair, current, and reasonable for similar treatment in the same community as paid by health insurers.

(9) TIERING: Is tiering applied?

Tiering is not applied, because the updated fee schedule applies to all parties equally.