

### **General Reporting Obligations**

#### **11.4.2.8 (F)(6) First report of injury data shall be submitted when any of the following triggering events occur:**

The proposed 2025 rule changes proposed the following language:

When first report of injury data has been filed and the claim is subsequently cancelled in error, first report of injury data shall be refiled immediately to re-establish the claim.

**Comments:** The use of the term "immediately" lacks clarity and, if interpreted literally, may be impractical to implement. Given that other related rules use the more specific and workable standard of "within 10 days," we recommend revising the language to reflect that same timeframe for consistency and ease of compliance.

#### **11.4.2.8 (F)(9) First report of injury data shall be submitted when any of the following triggering events occur:**

The proposed 2025 rule changes proposed the following language:

Immediately upon the employer's receipt of a complaint or an initial pleading involving an injury or illness that is not otherwise already supported by first report of injury data.

**Comments:** The use of the term "immediately" lacks clarity and, if interpreted literally, may be impractical to implement. Given that other related rules use the more specific and workable standard of "within 10 days," we recommend revising the language to reflect that same timeframe for consistency and ease of compliance.

#### **11.4.2.8 (G)(2) Subsequent report of injury data shall be submitted when any of the following triggering events occur:**

The proposed 2025 rule changes proposed the following language:

Within 10 days of the first payment by an employer of salary paid in lieu of compensation for all injuries or occupational disease that result in more than seven cumulative days of lost time or death.

**Comments:** The manner in which this rule is introduced may create confusion, particularly when considered alongside Rule 11.4.3.13(B)(5), which prohibits an employer from paying statutory benefits directly to a worker. To prevent misinterpretation and ensure consistency in application, we recommend clarifying the relationship between these provisions and aligning any overlapping language or intent:

Within 10 days of the first payment by an employer of salary paid in lieu of compensation, subject to NMRA 11.4.3.13(B)(5), for all injuries or occupational disease that result in more than seven cumulative days of lost time or death.

## **PART 2 REPEAL AND REPLACEMENT**

The proposed 2025 rule changes proposed Part 2 Repeal and Replacement

**Comment:** New Mexico Mutual has been working toward adoption of the new EDI requirements which were previously communicated by the Agency. Despite these anticipatory efforts, there will be a relatively short window from publication of the final rule and the effective date of November 7, 2025. Even seemingly minor deviations from the proposed to the final rules may require significant IT resources and system changes to accomplish. We recommend that the agency consider a grace period following the effective date of the rules for updating systems to accommodate the newly required reporting obligations.

Providing additional time or a phased implementation schedule would help regulated entities effectively adapt to the new requirements without disruption to service delivery or data integrity. We respectfully urge the agency to consider this adjustment to promote a smooth and efficient transition.

## **NON-CLINICAL SERVICES**

### **11.4.7.13(D)(1-5) Depositions:**

The proposed rule changes include the following:

#### **D. Depositions**

(1) An HCP may not charge more than ~~\$400-800 for the first-per hour or any portion thereof; and not more than \$360 per hour for the second and subsequent hours,~~ prorated in ~~five-fifteen~~ minute increments. An HCP may not charge more than ~~\$200-400 for the first-per~~ hour of deposition preparation time actually spent, ~~and not more than \$120 per hour for the second or third hours,~~ prorated in ~~five-fifteen~~ minute increments, up to a maximum of three hours.

(2) No compensation shall be paid for travel time to or from the deposition, waiting time prior to the scheduled beginning of the deposition, or time spent reading or correcting depositions. For good cause shown, a judge may enter a written order providing recompense to an HCP for reading and correcting a deposition.

(3) An HCP may require that they be paid for the first hour of the deposition testimony either before or at the time of the deposition.

(4) A non-refundable fee of up to ~~\$400-800~~ may be charged by an HCP for deposition appointments at which the attorney making the appointment is a no-show or fails to cancel at least 48 hours in advance.

(5) Any notice of deposition to a practitioner shall contain the following language: "The rules of the WCA provide a schedule of maximum permissible fees for deposition testimony. No more than ~~\$400-800 for the first-per hour and \$360 for each subsequent hour~~ is permitted, ~~prorated in fifteen minute increments. Fees for the second and subsequent hours shall be prorated in five minute increments.~~ An HCP may not charge more than ~~\$200-400~~ for the first hour of deposition preparation time actually spent, ~~and not more than \$120 for the second or third hours,~~ prorated in ~~five-fifteen~~ minute increments, up to a maximum of three hours."

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**Comments:** We support the changes that would increase the compensation rates for providers involved in deposition preparation and testimony. These adjustments appropriately reflect the value of providers' time and expertise, promote their continued participation, and enhance the overall quality of testimony in workers' compensation proceedings. Fair and adequate compensation is essential to sustaining a system that is efficient, equitable, and reliable.

The prorated unit increase to 15-minute increments from 5-minute increments can have a significant impact on cost, particularly where the hourly fee amount has increased. Example: A deposition that extends 1 min into the second hour would cost an additional \$200 under the proposed billing increment. As opposed to \$67 under the previous billing increments.

We recommend keeping the 5-minute increments or increasing them to 6-minute increments, which is a billing unit common to other industries and is easily calculated.

Whichever increments the Agency adopts, we recommend revising the language, in Subsection 11.4.7.13(D)(5), to replace "practitioner" with "HCP," in order to ensure consistency with the terminology used in Subsection 11.4.7.13(D)(1) through(4)