

New Mexico Workers' Compensation Administration

Main Office

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Regional Offices

Call the nearest regional office
to reach the Ombudsman and
Safety programs, and for forms
and publications.

Farmington

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Bldg. E, Ste. 2

Farmington, NM 87401

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In-state toll-free phone:
1-800-568-7310

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Hobbs

2120 North Alto, Unit 3

Hobbs, NM 88240

Phone: 575-397-3425

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Las Cruces

2407 W. Picacho, Ste D

Las Cruces, NM 88007

Phone: 575-524-6246

In-state toll-free phone:
1-800-870-6826

Fax: (575) 524-6249

Las Vegas

32 NM 65

Las Vegas, NM 87701

Phone: 505-454-9251

In-state toll-free phone:
1-800-281-7889

Fax: (505) 454-9248

Roswell

Penn Plaza Building

400 N. Pennsylvania Ave.,
Ste. 425

Roswell, NM 88201

Phone: 575-623-3997

In-state toll-free phone:
1-866-311-8587

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Santa Fe

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Santa Fe, NM 87505

Phone: 505-476-7381

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<https://workerscomp.nm.gov>



Help & Hotline

1-866-967-5667

HEALTH CARE PROVIDER GUIDE



STATE OF NEW MEXICO

Workers' Compensation
Administration

ONE TEAM | ONE GOAL

A Better New Mexico for Workers and Employers

A Guide for Health Care Providers

New Mexico Workers' Compensation Administration

What is workers' compensation?

Workers' compensation is a system of insurance that protects workers and employers from some of the losses caused by on-the-job accidents and job-related illnesses.

What is the role of the New Mexico Workers' Compensation Administration?

The New Mexico Workers' Compensation Administration (WCA) is the state agency that educates all parties in the workers' compensation system. The agency also regulates the workers' compensation system and resolves disputes between workers and employers. The WCA's Medical Cost Containment (MCC) and Economic Research & Policy Bureaus issue a medical fee schedule, which they review and update annually. MCC resolves workers' compensation billing and payment disputes and has special programs for case management and utilization review of workers' compensation care. The WCA Director appoints a Medical Advisory Committee primarily composed of health care providers (HCPs) to assist in establishing the schedules of maximum allowable fees and reimbursements under the medical fee schedule. The committee also assists in adopting regulations for employers' utilization review procedures (NMSA §52-4-5).

Who is a "health care provider" under the New Mexico workers' compensation system?

"Health care providers" (HCP) are defined as noted in NMSA §52-4-1, and include hospitals maintained or licensed by the New Mexico Department of Health, optometrists, chiropractors, New Mexico licensed physicians, physical therapists, and "any person or facility that provides health-related services in the health care industry, as approved by the director." (See statute for full list and definitions).

with the permanent and total loss or loss of use of both hands or both arms or both feet or both legs or both eyes or any two of them, or a disabling brain injury.

Pre-existing Condition

A physical condition or illness that the worker had before the work-related accident or illness.

Providers' Report of Physical Ability (PROPA)

A form HCPs are encouraged to complete at each treating appointment to communicate work and activity restrictions. The form is available on the WCA website.

Residual Physical Capacity (RPC)

A rating given to an injured worker's ability to perform physical tasks after an injury as compared to a worker's physical capacity before the injury (§52-1-26.4).

Scheduled Injury

An injury to a specific body part listed in a schedule in the statute (§52-1-43). Benefits for scheduled injuries are based on loss of use rather than the permanent partial disability benefit formula and are paid for a specific limited number of weeks, depending on the affected body part.

Temporary Partial Disability (TPD)

Indemnity payments made to workers who remain employed but at a reduced wage or with reduced hours during the period of temporary disability.

Temporary Total Disability (TTD)

Indemnity payments made to workers based on their inability to perform duties by reason of accidental injury arising out of and in the course of employment, up to the date of maximum medical improvement. The TTD amount is also known as the compensation rate for the worker.

Occupational Disease

A disease caused or partly caused by the specific job a worker does.

Occupational Injury

An injury that occurs while the worker is on the job.

Official Disability Guidelines (ODG)

The Work Loss Data Institute's (WLDI) Official Disability Guidelines (ODG) provide a Utilization Review Advisor page of possible procedures/services. Some workers' compensation insurance companies use the ODG for their utilization review.

Ombudsman

A specialist who investigates and attempts to fairly resolve disputes, problems, or concerns. WCA ombudsmen provide information on workers' compensation for all parties at no charge, but do not provide legal advice.

Permanent Partial Disability (PPD)

A category of indemnity benefit payable when a worker has a permanent physical impairment after reaching maximum medical improvement (MMI). The benefit amount is determined by the worker's physical impairment as rated by the *AMA Guides* (See *AMA Guides* in Glossary, p. 8), and if the worker is unable to return to work, by a formula based on factors such as the worker's age, education, job skills and residual physical capacity.

Permanent Partial Disability Modifier Formula

Once at maximum medical improvement (MMI), a modifier formula may be used to calculate additional permanent disability benefits if the worker has not returned to employment at the pre-injury wage. Statute specifies the modifier points to be assigned, as well as the Dictionary of Occupational Titles. The formula is based on factors such as age, education, job skills and residual physical capacity.

Permanent Total Disability (PTD)

A category of indemnity benefit payable when a worker has been left

What do providers need to do to accept/treat injured workers?

New Mexico licensed HCPs need only to be willing to accept and treat injured workers, and accept payment according to the New Mexico health care provider fee schedule. HCPs not licensed within the state of New Mexico must be approved by the WCA Director, pursuant to the WCA rules at 11.4.7.10 NMAC, in order to qualify as an HCP under the New Mexico Workers' Compensation Act. However, this approval is presumed given when an out-of-state HCP provides services to an injured worker, abides by the New Mexico HCP Fee Schedule, and the employer/insurer pays for those services.

What type of benefits are employees entitled to?

New Mexico workers who sustain a work-related compensable injury on the job are entitled to reasonable and necessary medical treatment, as well as wage replacement benefits when they miss more than seven days of work because of the injury. These benefits are covered by a commercial workers' compensation insurance policy or self-insurance policy, which is required for all New Mexico employers who have three or more workers, or who engage in activities licensed by the Construction Industries Division of the New Mexico Regulation and Licensing Department.

What services require prior authorization?

Pursuant to 11.4.7.8 (B) NMAC, pre-authorization is always required prior to scheduling or performing any of the following services: independent medical examinations, physical impairment ratings, functional capacity evaluations, physical therapy, caregiver services, and durable medical equipment. For all other services, the WCA encourages parties to make evidence-based decisions when authorizing for reasonable and necessary medical care. The Work Loss Data Institute's (WLDI) Official Disability Guidelines (ODG) provide a Utilization Review (UR) Advisor page of possible procedures/services. Each item is given a "bill review payment flag" which is color-coded based on appropriateness of the service. Whenever in doubt about whether a procedure will be authorized, it is always best to contact the claims adjuster.

What paperwork are physicians or other providers required to complete?

None as a matter of course. However, HCPs who receive the “Form Letter to Health Care Provider” should complete and return it, as the information helps assist in disputed cases. HCPs are not required, but are encouraged to complete a “Provider’s Report of Physical Ability” form at every treating appointment. The report is meant to be inclusive to allow documentation of work status, activity restrictions and any treatment/follow-up recommended for an injured worker(s). If involved in a billing dispute, the WCA’s *Medical Service Referral* form should be used. Forms can be found on the WCA’s website (<https://workerscomp.nm.gov/NMWCA-Forms>). Medical notes should be provided when billing an insurer.

What is the Health Care Provider Fee Schedule?

The Health Care Provider Fee Schedule (HCPFS) is issued annually by the WCA to set maximum allowable fees and reimbursements for health care and non-clinical services. (NMSA §52-4-5). Lower rates may be negotiated between HCPs and payers, but cannot exceed the maximum allowable reimbursement.

Who is responsible for payment of medical services?

After a workplace injury, an employer’s insurer or self-insurer is responsible for making payments to the HCP.

What do I do if the workers’ compensation insurer refuses to pay for medical services I’ve provided?

Sometimes there may be portions of medical bills unpaid by the insurer or self-insurer. Workers’ compensation laws in New Mexico prohibit HCPs from billing a party (balance billing) for the difference between usual charges and the maximum amount of reimbursement listed in the HCPFS. The NM WCA’s Medical Cost Containment (MCC) Bureau, however, works to help informally resolve billing disputes between workers’ compensation insurers and/or other payers and HCPs. Pursuant to 11.4.7.11 NMAC (See: <https://workerscomp.nm.gov/WCA-Rules-and-Statutes>), any party may submit a request to the

Health Care Provider (HCP)

A person or organization that provides health care services. By law, the health care provider may be any person licensed in New Mexico in one of these professions: medical doctors, optometrists, chiropractors, dentists, podiatrists, osteopathic physicians, physician assistants, certified nurse practitioners, physical therapists, occupational therapists, acupuncture practitioners, psychologists, athletic trainers and certified nurse-midwives.

Impairment Rating

Describes the degree of permanent damage to the body as a whole. This rating can only be given by the treating HCP or independent medical examiner and must be based on a reference book called the *AMA Guides*. (See *AMA Guides* in Glossary, p. 8).

Independent Medical Examination (IME)

When parties dispute a worker’s medical treatment, either party may petition a workers’ compensation judge for the worker to be examined by an independent physician who has not previously treated the worker. IMEs can also occur by agreement of the parties. The judge then considers the opinion of that examination in determining the case. IME providers used by a judge must be approved by a committee appointed by the WCA Advisory Council.

Maximum Medical Improvement (MMI)

The date after which further recovery from or lasting improvement to an injury can no longer be reasonably anticipated as a result of further medical treatment, based upon reasonable medical probability as determined by a HCP.

Medical Benefits

Payment by the insurer to a HCP for an injured worker’s reasonable, necessary and related medical care.

Modified Work

A change to normal work duties that allows an injured worker to return to employment.

Glossary

Aggravation

When a condition or injury is permanently worsened.

AMA Guides to the Evaluation of Permanent Impairment (AMA Guides)

A book published for health care providers by the American Medical Association, which describes how to rate the impairments of injured workers. The *AMA Guides* is the official standard for the impairment ratings for workers' compensation injuries in New Mexico.

Dictionary of Occupational Titles (DOT)

A publication containing job titles and descriptions which is used in workers' compensation to calculate a worker's permanent partial disability (PPD rating; see definition, page 10). The DOT explains the physical abilities required to perform a job and the time and repetitiveness of a job's physical actions.

Disability Rating

A percentage value determined by calculating an injured worker's impairment as modified by the worker's age, education and physical capacity. A disability rating is used to determine benefits for an injured worker with a permanent disability.

Exacerbation

A pre-existing injury that is temporarily worsened but returns to baseline.

Ex-Parte Communication

Improper contact with the judge or HCP to a case without presence or knowledge of other parties involved.

Form Letter to Health Care Provider

A form containing questions to be answered by the health care provider. The form is returned to the requesting party with a copy to the injured worker. Filling out the form is a billable service under the Health Care Providers Fee Schedule (HCPFS).

MCC for a director's determination on the approved form, which can be found on the NM WCA website (<https://workerscomp.nm.gov/NMWCA-Forms>) (*Medical Service Referral*).

What information is necessary when submitting a billing dispute?

A request for director's determination in a billing dispute must consist of a brief explanation of the disputed billing and payment issue(s). The request must be accompanied by a copy of the bill(s) in question, a copy of the payer's explanation, and all supporting documentation necessary to substantiate the performance of the service(s) and the accuracy of the associated charges. (See https://workerscomp.nm.gov/sites/default/files/documents/forms/med_services_ref.pdf).

How long does a provider have to appeal a billing or payment issue?

Requests for billing dispute reviews must be made in writing within 30 days of the documented receipt date of the payer's disposition, nonpayment of the bill, or denial of a request for reconsideration (11.4.7.11.B-NMAC).

Are there any other reasons why there may be a delay in payment?

Sometimes disagreements arise in workers' compensation claims that may center on whether or not an injury is compensable or whether a particular medical treatment or procedure was/is reasonable and necessary. The WCA has its own administrative court to resolve such disputes. The court is staffed with professional mediators, administrative law judges and the official court clerk, who keeps records and processes legal documents. Occasionally, medical payments may be delayed until disputed claims are resolved through mediation or until a WCA judge issues a final order in a case.

Will my patient be assigned a WCA nurse case manager?

Only a small number of cases are assigned a WCA nurse case manager. The insurer may assign case management, provided the worker has given consent. Case management assignments made by the WCA do not require worker consent and are mandatory. WCA case managers

are assigned to severe or complicated injury claims by either a WCA work comp order or after a request is evaluated by the MCC bureau chief. Any party may request a WCA nurse case manager by filling out the form on the WCA website, which the MCC bureau chief will use to determine appropriate WCA nurse case management eligibility. WCA nurse case managers have the right to contact all involved parties including treating HCPs. A WCA nurse case manager's primary duty is to facilitate communication between the patient and the HCP with a goal of assuring prompt delivery of appropriate health care to the injured worker.

What is “utilization review” and when might it be necessary?

On occasion, it may be necessary to evaluate the necessity, appropriateness, efficiency and quality of health care services provided to an injured or disabled worker. NMSA §52-4-2 establishes parameters for utilization review (UR) in the New Mexico workers' compensation system. Although uncommon, the WCA can institute rules to decide what is “reasonable and necessary” care. Pursuant to WCA rule 11.4.7.12.C (3) NMAC (See: <https://workerscomp.nm.gov/WCA-Rules-and-Statutes>), utilization review shall not include issues of compensability, including causal relationship, whether or not a worker is disabled, or whether the injured worker has reached maximum medical improvement. Decisions issued pursuant to the UR system are binding on the affected HCPs, workers, employers, insurers and their representatives.

What, if any, communication is authorized regarding the status of my patient?

Ex-parte communication between a doctor and other parties to a worker's claim is prohibited unless approved by the worker. Examples include a telephone call or correspondence. However, information regarding work restrictions and when or if a worker might be released to return to work can be shared. Communications regarding billing, scheduling, etc., between HCP office staff and insurer/payer is necessary and allowable by statute. While the Form Letter to Health Care Provider can be shared, it is important to be careful about

sharing other medical forms. Consult with a WCA ombudsman if unsure.

How does the Health Insurance Portability and Accountability Act (HIPAA) relate to workers' compensation?

The information a health care provider can disclose must be limited to those records related to any injuries or disabilities claimed by a worker for which the worker is receiving benefits from the employer. Health records unrelated to the workplace injury/illness remain protected under HIPAA. New Mexico statute (§52-10-1) allows health care providers to supply medical information to the worker, that worker's employer, that employer's insurer, or the appropriate peer review organization, upon receipt of the signed *Workers' Authorization for Use and Disclosure of Health Records* form. This form allows the insurance adjuster to process and evaluate the claim.

Can I sign up to provide an independent medical examination (IME)?

Yes. The IME committee annually reviews a list of providers approved to conduct independent medical examinations (IMEs). The committee, appointed by the Advisory Council on Workers' Compensation and Occupational Disease Disablement, consists of three labor representatives and three business representatives. HCPs interested in providing IMEs in workers' compensation cases should contact the WCA's Medical Cost Containment Bureau, 505-841-6844. Providers do not necessarily have to be on this list to offer and conduct IMEs. The list kept and maintained by the WCA is used by judges when ordering an IME in disputed cases.

Who should I contact if I have additional questions?

For answers to questions not addressed in this guide, contact the Medical Cost Containment Bureau at 505-841-6844, or call the Ombudsman hotline, 1-866-967-5667.