

SENATE BILL NO. 408

BY SENATOR MYERS

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AN ACT

To amend and reenact the introductory paragraph of R.S. 23:1021, 1034.2(C) and (F), 1201(E) and the introductory paragraph of (F) and (F)(2), 1201.1(A), (B), (D), (E), (G) through (I), (J)(2) through (4), the introductory paragraph of (K)(1) and (K)(2) through (5), 1203(B), 1203.1(J)(1), and 1203.2 and R.S. 44:4.1(B)(12) and to enact R.S. 23:1021(14) and Subpart K of Part 1 of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 23:1200.18.1 through 23:1200.18.9, relative to workers' compensation; to establish an All Workers' Compensation Medical Bill Database; to provide for duties of Louisiana Works, office of workers' compensation administration; to provide for mandatory reporting of medical and pharmacy claims data; to provide for rulemaking; to provide for confidentiality and data protections; to provide for public records exceptions; to provide definitions; to provide for the controversion of compensation and medical benefits; to require certain notice and delivery requirements; to provide for preliminary determination hearings; to provide for penalties; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 23:1021, 1034.2(C) and (F), 1201(E) and the introductory paragraph of (F) and (F)(2), 1203(B), and 1203.1(J)(1) are hereby amended and reenacted and R.S. 23:1021(14) are hereby enacted to read as follows:

§1021. Terms defined

1 As used in this Chapter, unless the context clearly indicates otherwise, the
2 following terms shall be given the meaning ascribed to them in this Section: have
3 the meanings ascribed to them:

4 * * *

5 (14) "Payor" means the entity responsible by law or contract for
6 payment of the medical expenses incurred by or on behalf of an employee as a
7 result of a work injury or occupational disease compensable pursuant to this
8 Chapter.

9 * * *

10 §1034.2. Reimbursement schedule

11 * * *

12 C.(1) The reimbursement schedule shall include charges limited to the mean
13 of the usual and customary charges for such care, services, treatment, drugs, and
14 supplies. ~~Any necessary adjustments to the reimbursement schedule adopted and~~
15 ~~established in accordance with the provisions of this Section may be made annually.~~
16 Reimbursement for an implant shall be the total of the original manufacturer's
17 invoice or the authorized distributor's invoice amount paid plus twenty percent.
18 For the purposes of this Subsection, "implant" means plastic and metallic
19 implants or nonautogenous graft materials.

20 (2) ~~The assistant secretary shall have the authority to collect the information~~
21 ~~and data necessary to calculate the reimbursement schedule. The collection of~~
22 ~~information and data shall be governed by the following guidelines:~~

23 ~~(a) The assistant secretary shall create a written survey detailing the~~
24 ~~information requested.~~

25 ~~(b) The survey shall be managed by the office of workers' compensation~~
26 ~~administration in conjunction with an academic institution.~~

27 ~~(c) The information requested shall be based upon data at least six months~~
28 ~~old.~~

29 ~~(d) There shall be a minimum of thirty health care providers reporting data~~
30 ~~upon which each disseminated statistic is based.~~

1 decision of the office of workers' compensation administration's medical
2 services section shall be final.

3 (2) Upon written notice of the decision by the workers' compensation
4 administration's medical services section, the nonprevailing party may appeal
5 the decision within thirty days of its receipt by certified mail. The appeal shall
6 be to the judicial district court of proper venue as provided in the Code of Civil
7 Procedure.

8 (3) The assistant secretary shall publish, at least annually, data and
9 statistics regarding the disputes filed and the decisions rendered pursuant to
10 this Section.

11 (4) ~~In addition to any other occasion when consolidation of claims is~~
12 ~~otherwise allowed by applicable law, whenever~~ **Whenever** multiple disputes exist
13 between a single ~~health care~~ **healthcare** provider and a single "payor" as defined in
14 R.S. ~~23:1142(A)~~ concerning the proper amount payable pursuant to the
15 reimbursement schedule then **workers' compensation payor**, either the health care
16 **healthcare** provider or the payor shall have the right to have all such disputes
17 between the payor and the ~~health care~~ **healthcare** provider consolidated and ~~tried~~
18 **decided** together. The venue for such consolidated claims shall be in either the
19 workers' compensation district of the parish in which the domicile of the provider is
20 located or the workers' compensation district of the parish in which the domicile of
21 the payor or employer is located.

22 (5) The assistant secretary shall promulgate rules and forms pursuant
23 to the Administrative Procedure Act necessary to implement the dispute
24 resolution process provided for in this Subsection no later than January 1, 2028.

25 * * *

26 §1201. Time and place of payment; failure to pay timely; failure to authorize;
27 penalties and attorney fees

28 * * *

29 E.(1) ~~Medical benefits payable under this Chapter shall be paid within sixty~~
30 ~~days after the employer or insurer receives written notice thereof, if the provider of~~

1 §1203. Duty to furnish medical and vocational rehabilitation expenses; prosthetic
2 devices; other expenses

3 * * *

4 B. The obligation of the employer to furnish such care, services, treatment,
5 drugs, and supplies, whether in state or out of state, is limited to the reimbursement
6 ~~determined to be the mean of the usual and customary charges for such care,~~
7 ~~services, treatment, drugs, and supplies, as determined~~ under the reimbursement
8 schedule ~~annually~~ published pursuant to R.S. 23:1034.2 or the actual charge made
9 for the service, whichever is less. Any out-of-state provider is also to be subject to
10 the procedures established under the office of workers' compensation administration
11 utilization review rules.

12 * * *

13 §1203.1. Definitions; medical treatment schedule; medical advisory council

14 * * *

15 J.(1) After a medical provider has submitted to the payor the request for
16 authorization and the information required by the Louisiana Administrative Code,
17 Title 40, Chapter 27, the payor shall notify the medical provider of ~~their~~ its action
18 ~~on the request~~ within five business days of receipt of the request. ~~If any dispute arises~~
19 ~~after January 1, 2011,~~ Any request for authorization of office visits, diagnostic
20 testing, chiropractic treatment of twelve office visits or less, or physical therapy
21 of twelve office visits or less is considered authorized and approved by the
22 payor, if it has not been specifically denied within five business days. Upon
23 expiration of five business days of submission of a request for authorization of
24 nonsurgical treatment, the healthcare provider that made the request may
25 notify the director of the office of workers' compensation that no denial of
26 authorization has occurred on a form promulgated by the office of workers'
27 compensation, and within five business days of receipt of such notice the
28 director of the office of workers' compensation shall issue an order directing
29 that the requested treatment, procedure, or testing is authorized, if it is found
30 that the medical provider properly submitted to the payor the request for

1 authorization along with the information required by Chapter 27 of Title 40 of
 2 the Louisiana Administrative Code. If the payor has timely denied authorization
 3 and a dispute arises as to whether the recommended care, services, or treatment is
 4 in accordance with the medical treatment schedule, or whether a variance from the
 5 medical treatment schedule is reasonably required as contemplated in Subsection I
 6 of this Section, any aggrieved party shall file, ~~within fifteen calendar days,~~ an appeal
 7 with the office of workers' compensation administration medical director or associate
 8 medical director on a form promulgated by the assistant secretary. The medical
 9 director or associate medical director shall render a decision as soon as is practicable,
 10 but in no event, not more than thirty calendar days from the date of filing.

11 * * *

12 Section 2. R.S. 23:1201.1(A), (B), (D), (E), (G) through (I), (J)(2) through (4), the
 13 introductory paragraph of (K)(1) and (K)(2) through (5) are hereby amended and reenacted
 14 to read as follows:

15 §1201.1. Controversion of compensation and medical benefits

16 A. Upon the first payment of compensation ~~or upon any modification,~~
 17 ~~suspension, termination, or controversion of compensation or medical benefits for~~
 18 ~~any reason, including but not limited to issues of medical causation, compensability~~
 19 ~~of the claim, or issues arising out of R.S. 23:1121, 1124, 1208, and 1226,~~ the
 20 employer or payor who has been notified of the claim, shall do all of the following:

21 (1) Prepare a "Notice of **Payment**, Modification, Suspension, Termination,
 22 or Controversion of Compensation ~~and/or or~~ **Medical Benefits**" on a LWC-WC
 23 1002 form or such other form as may be promulgated by the assistant secretary
 24 pursuant to the Administrative Procedure Act.

25 (2) Send the notice ~~of the initial indemnity payment~~ required by Paragraph
 26 (1) of this Subsection to the injured employee ~~on the same day as~~ no later than
 27 three business days after the first payment of compensation is made by the payor
 28 after the payor has received notice of the claim from the employer.

29 (3) Send a copy of the notice ~~of the initial payment of indemnity~~ required
 30 by Paragraph (1) of this Subsection to the office ~~within ten days from the~~ on the

1 ~~same~~ date the original notice was sent to the injured employee ~~or by facsimile to the~~
 2 ~~injured employee's representative.~~

3 (4) Send the "Notice of Payment, Modification, Suspension, Termination, or
 4 Controversion of Compensation and/or Medical Benefits" to the injured employee
 5 by certified mail, to the address at which the employee is receiving payments of
 6 compensation, on or before the effective date of a modification, suspension,
 7 termination, or controversion.

8 ~~B. The form of the "Notice of Payment, Modification, Suspension,~~
 9 ~~Termination, or Controversion of Compensation and/or Medical Benefits" shall be~~
 10 ~~promulgated by the office~~ **Upon any modification, suspension, termination, or**
 11 **controversion of compensation or medical benefits for any reason, including but**
 12 **not limited to issues of medical causation, compensability of the claim, or issues**
 13 **arising out of R.S. 23:1121, 1124, 1208, or 1226, the employer or payor shall do**
 14 **all of the following:**

15 **(1) Prepare a "Notice of Payment, Modification, Suspension,**
 16 **Termination, or Controversion of Compensation or Medical Benefits" on a**
 17 **LWC-WC 1002 form or such other form as may be promulgated by the**
 18 **assistant secretary pursuant to the Administrative Procedure Act.**

19 **(2) Send the notice required by Paragraph (1) of this Subsection to the**
 20 **injured employee within three business days after the effective date of the**
 21 **modification, suspension, termination, or controversion.**

22 **(3) Send a copy of the notice required by Paragraph (1) of this**
 23 **Subsection to the office on the same date the original notice was sent to the**
 24 **employee.**

25 * * *

26 **D.(1) Any notice required to be sent to the injured employee pursuant to**
 27 **this Section shall be sent by certified mail or commercial carrier to the address**
 28 **at which the employee is receiving payment of indemnity benefits, by electronic**
 29 **mail to the employee's electronic mail address on file with the employer or**
 30 **payor or by hand delivery to the employee.**

1 (2) For purposes of receiving notice required by this Section, the
 2 employee shall provide a mailing address and may also provide an electronic
 3 mail address upon request from the employer or payor.

4 (3) If the injured employee is represented by an attorney, the notice shall also
 5 be provided sent to the employee's representative attorney by facsimile, certified
 6 mail, commercial carrier, electronic mail, or hand delivery. Proof that the notice
 7 was sent to the employee's representative ~~by facsimile~~ as required by this
 8 Paragraph shall be prima facie evidence of compliance with ~~Subsection A~~ of this
 9 Section.

10 E. The provisions of this Section shall not apply to questions of medical
 11 necessity as provided by R.S. 23:1203.1, or disputes concerning the amount of
 12 reimbursement pursuant to R.S. 23:1034.2.

13 * * *

14 G.(1) If the employer or the payor provides the benefit that the employee
 15 claims is due, including any arrearage, on the returned form or letter of amicable
 16 demand within ~~seven~~ ten business days of receipt of the employee's demand, the
 17 employer or payor shall not be subject to any claim for any penalties or attorney fees
 18 arising from the disputed payment, modification, suspension, termination, or
 19 controversion.

20 (2) If the employer or payor does not provide the benefit that the employee
 21 claims is due, the employee may file a disputed claim for benefit provided it is filed
 22 within the prescriptive period established under R.S. 23:1209. If the prescription date
 23 of the claim occurs within the ~~seven-day~~ ten-day waiting period, the employee will
 24 be allowed to file a disputed claim without waiting the ~~seven~~ ten business days as
 25 provided in Paragraph (1) of this Subsection. However, the employer or payor shall
 26 still be allowed ~~seven~~ ten business days to provide the benefit that the employee
 27 claims is due, and if the employer does provide the benefit, the disputed claim will
 28 be moot regarding the issues arising out of the payment, suspension, modification,
 29 termination, or controversion of benefits. All other issues alleged in the disputed
 30 claim will be unaffected by the payment.

1 H. The employer or the payor who wishes to have a preliminary
 2 determination hearing shall request the hearing in his answer to the disputed claim
 3 arising from the notice of initial payment or any subsequent modification,
 4 suspension, termination, or notice of controversion. In cases where a disputed claim
 5 is already pending when an issue arises from a subsequent notice of payment,
 6 modification, suspension, termination, or controversion of benefits, such request
 7 shall be made in an amended pleading filed within ~~fifteen~~ **ten business** days of the
 8 expiration of the ~~seven-day~~ **ten-day** period set forth in Paragraph (G)(1) of this
 9 Section.

10 I.(1) ~~An~~ **Preliminary determinations as provided for in this Section are**
 11 **avored under the law and an** employer or payor who has ~~not~~ complied with the
 12 requirements set forth in **either** Subsection A ~~through E of this Section or has not~~
 13 ~~initially accepted the claim as compensable, subject to further investigation and~~
 14 ~~subsequent controversion~~ **or Subsection B of this Section, and who has provided**
 15 **notice as required by Subsection D of this Section,** shall ~~not~~ be entitled to a
 16 preliminary determination. An employer or payor who is not entitled to a preliminary
 17 determination or who is so entitled but fails to request a preliminary determination
 18 may be subject to penalties and attorney fees pursuant to R.S. 23:1201 at a trial on
 19 the merits or hearing held pursuant to Paragraph (K)(8) of this Section.

20 (2) ~~If disputed by the parties, upon a rule to show cause held prior to the~~
 21 ~~preliminary determination or any hearing held pursuant to this Section, the workers'~~
 22 ~~compensation judge shall determine whether the employer is in compliance~~ **An**
 23 **employee who objects to a request for a preliminary determination shall file a**
 24 **notice of objection to the request within twenty-one business days of receiving**
 25 **the documentation required to be produced by the employer or payor pursuant**
 26 **to Paragraph (J)(4) of this Section. The notice of objection shall be considered**
 27 **by the workers' compensation judge by a rule to show cause prior to any**
 28 **preliminary determination hearing. Failure to file the notice of objection within**
 29 **the prescribed time period shall be deemed a waiver of any objection to the**
 30 **preliminary determination hearing. The assistant secretary shall promulgate a**

1 standard notice of objection form in accordance with the Administrative
 2 Procedure Act.

3 J. * * *

4 (2) The testimony of physicians may be introduced by certified records or
 5 deposition. The parties may agree to allow uncertified medical records and physician
 6 reports to be introduced into evidence. Witnesses may testify at the hearing or, if
 7 agreed on by the parties, may offer testimony by introduction of a deposition.

8 (3) The preliminary determination hearing shall be held no later than ninety
 9 days from the scheduling conference. However, upon a showing of good cause, one
 10 extension of an additional thirty days is permitted upon approval by the workers'
 11 compensation judge. The workers' compensation judge shall issue a preliminary
 12 determination no later than ~~thirty~~ **fifteen** days after the hearing.

13 (4) Any employer or payor requesting a preliminary determination hearing
 14 shall produce all documentation relied on by the employer or payor in calculating,
 15 modifying, suspending, terminating, or controverting the employee's benefits. These
 16 documents shall be disclosed to the employee or the employee's representative within
 17 ten **business** days of the request for the preliminary determination hearing.

18 K.(1) The employer or payor shall, within ten ~~calendar~~ **business** days of the
 19 mailing of the **preliminary** determination from the workers' compensation judge, do
 20 either of the following:

21 * * *

22 (2) Any employer or payor who accepts and complies with the workers'
 23 compensation judge's determination within ten ~~calendar~~ **business** days, shall not be
 24 subject to any penalty or attorney fees arising out of the original notice which was
 25 the subject of the preliminary hearing.

26 (3) Any employer or payor who accepts and complies with the workers'
 27 compensation judge's determination, but who disagrees with such preliminary
 28 determination, shall notify the court within ten **business** days of receipt of the
 29 preliminary determination of his desire to proceed to a trial on the merits of the
 30 matters that were the subject of the preliminary hearing.

1 (4) Any employer or payor who does not accept the workers' compensation
 2 judge's determination or fails to comply with the determination within ten ~~calendar~~
 3 **business** days, may, at the trial on the merits, be subject to penalties and attorney
 4 fees pursuant to R.S. 23:1201, arising out of the issues raised in the original notice
 5 of payment, modification, suspension, termination, or controversion of benefits,
 6 which was the subject of the preliminary hearing.

7 (5) Any injured employee who disagrees with the preliminary determination
 8 shall notify the court within ten **business** days of the receipt of such preliminary
 9 determination of his desire to proceed to a trial on the merits of the matters that were
 10 the subject of the preliminary hearing. If the employer or payor has accepted and
 11 complied with the preliminary hearing determination, the employer or payor shall
 12 also be entitled to litigate all issues including those issues presented at the
 13 preliminary determination hearing.

14 * * *

15 Section 3. R.S. 23:1203.2 is hereby amended and reenacted and Subpart K of Part
 16 1 of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, comprised of R.S.
 17 23:1200.18.1 through 1200.18.9, is hereby enacted to read as follows:

18 **SUBPART K. ALL WORKERS' COMPENSATION MEDICAL**

19 **BILL DATABASE**

20 **§1200.18.1. Short title**

21 **This Subpart shall be known and may be cited as the "Louisiana All**
 22 **Workers' Compensation Medical Bill Database Act".**

23 **§1200.18.2. Terms defined**

24 **As used in this Subpart, unless the context clearly indicates otherwise,**
 25 **the following terms have the meanings ascribed to them:**

26 **(1) "Database" means the All Workers' Compensation Medical Bill**
 27 **Database.**

28 **(2) "Medical claim" means any claim submitted by a healthcare provider**
 29 **to a payor for payment for healthcare services, pharmaceuticals, durable**
 30 **medical equipment, or related services provided to an employee pursuant to this**

1 Chapter.

2 §1200.18.3. Establishment of database

3 A.(1) The assistant secretary of the office of workers' compensation
4 administration shall establish and maintain the All Workers' Compensation
5 Medical Bill Database.

6 (2) The database shall contain medical and pharmacy claims information
7 submitted by all payors providing workers' compensation coverage in this state.

8 B. The purpose of the database shall be to do all of the following:

9 (1) Improve transparency in medical reimbursement trends.

10 (2) Assist in enforcement and maintenance of an appropriate fee
11 schedule.

12 (3) Evaluate medical utilization patterns and outcomes.

13 (4) Detect fraud, waste, and abuse.

14 (5) Support policy development, rate analysis, and system oversight.

15 C. The assistant secretary may retain and consult with qualified
16 individuals or organizations with expertise in data analytics and medical billing
17 for purposes of creation, operation, and maintenance of the database. However,
18 data contained in the database shall only consist of claims data obtained directly
19 from workers' compensation payors in this state.

20 D.(1) The office may retain, at its expense, a qualified and independent
21 provider-based claims administrator or claims examiner with demonstrated
22 expertise in Louisiana claims administration, reimbursement methodologies,
23 and payor payment data analysis. The administrator or examiner shall collect,
24 analyze, and report professional and technical claims charge and payment data
25 for actuarial review and system oversight purposes. The submitted data shall
26 be utilized to develop evidence-based fee schedule recommendations to the office
27 and to identify system imbalances, including:

28 (a) Outlier provider claims patterns.

29 (b) Unpaid claims.

30 (c) Underpaid claims.

1 (d) Untimely paid claims.

2 (e) Revenue cycle management aging metrics by payor and by claim
3 service line.

4 (2) The office shall utilize the data to promote transparency,
5 accountability, and evidence-based operational practices within the healthcare
6 claims payment system. The office may evaluate provider claims activity and
7 payor revenue cycle management behavioral algorithms to identify
8 inefficiencies, improve digital and electronic claims processing work-flows, and
9 enhance administrative efficiency throughout the system.

10 (3) All data collected and maintained pursuant to this Section shall
11 remain confidential and shall be protected in accordance with applicable state
12 and federal privacy and data security laws. The office shall establish safeguards
13 necessary to preserve data integrity, prevent unauthorized disclosure, and
14 ensure compliance with all applicable confidentiality requirements.

15 (4) The office may further utilize RCM data and actuarial findings to
16 determine whether penalties, corrective actions, or other enforcement measures
17 should be assessed against providers for improper billing practices or against
18 payors for improper payment practices, including patterns of delayed, denied,
19 or inaccurate reimbursement.

20 §1200.18.4. Mandatory reporting requirements

21 A.(1) Beginning January 1, 2027, all workers' compensation payors shall
22 submit to the assistant secretary of the office of workers' compensation
23 administration medical and pharmacy claims data for all workers'
24 compensation claims arising pursuant to state law.

25 (2) Submission shall occur in a format, time, and manner prescribed by
26 rule of the office of workers' compensation administration.

27 B. Required data elements shall include all of the following:

28 (1) Date of injury.

29 (2) Employer industry classification.

30 (3) Provider specialty and identifier.

1 **(4) Current procedural terminology (CPT) codes, Healthcare Common**
2 **Procedure Coding System (HCPCS) codes, National Drug Code (NDC) codes,**
3 **and International Classification of Diseases (ICD) codes, as applicable.**

4 **(5) Billed charge and allowed amount.**

5 **(6) Paid amount.**

6 **(7) Service dates.**

7 **(8) Utilization review actions.**

8 **(9) Claim status indicators.**

9 **C. Data shall be submitted quarterly unless otherwise required by**
10 **provisions of Part I of Title 40 of the Louisiana Administrative Code that**
11 **establish, promulgate, and update the reimbursement schedule.**

12 **§1200.18.5. Rulemaking authority**

13 **A. The assistant secretary of the office of workers' compensation**
14 **administration shall promulgate rules in accordance with the Administrative**
15 **Procedure Act to implement this Subpart.**

16 **B. Rules shall include but not be limited to all of the following:**

17 **(1) Technical data submission standards.**

18 **(2) Data validation procedures.**

19 **(3) Compliance time lines.**

20 **(4) Procedures for correction of erroneous submissions.**

21 **(5) Standards for public reporting.**

22 **§1200.18.6. Confidentiality and data protection**

23 **A.(1) All information collected pursuant to this Subpart and maintained**
24 **in the database shall be confidential and privileged and shall not be public**
25 **record and subject to subpoena. This confidentiality shall be strictly maintained**
26 **by the assistant secretary, all employees of the office, and by any agent or**
27 **contractor of the state and shall be used exclusively for the purposes set forth**
28 **in this Subpart. Whoever violates the provisions of this Paragraph shall be**
29 **guilty of a misdemeanor and fined not more than five hundred dollars for each**
30 **offense.**

1 **(2) The database shall comply with applicable state and federal privacy**
2 **and security laws.**

3 **B. Public reports shall present only aggregated or de-identified data.**

4 **§1200.18.7. Authorized uses**

5 **The assistant secretary of the office of workers' compensation**
6 **administration shall only use the database data for any of the following reasons:**

7 **(1) Monitoring compliance with medical fee schedule regulations.**

8 **(2) Studying medical cost drivers and utilization trends.**

9 **(3) Supporting actuarial review and rate analysis.**

10 **(4) Evaluating the effectiveness of medical treatment guidelines.**

11 **(5) Developing, revising, or modernizing the workers' compensation**
12 **medical fee schedule pursuant to the provisions of this Subpart.**

13 **(6) Reporting annually to the legislature.**

14 **§1200.18.8. Data integrity**

15 **A. The assistant secretary shall have the authority to investigate and**
16 **audit the claim data submissions of any workers' compensation payor upon a**
17 **reasonable belief that a payor or healthcare provider is engaging in conduct**
18 **that may undermine the accuracy, completeness, or reliability of the data**
19 **contained in the database.**

20 **B. Each workers' compensation payor shall fully cooperate with any**
21 **investigation or audit conducted pursuant to this Section and shall provide**
22 **access to all records, documents, and information reasonably necessary to verify**
23 **the accuracy and completeness of submitted data.**

24 **C. Failure of a workers' compensation payor to fully cooperate with an**
25 **investigation or audit conducted pursuant to this Section shall be grounds for**
26 **the imposition of a civil fine not to exceed ten thousand dollars per day for each**
27 **day of noncompliance until such time as the payor fully complies with the**
28 **requests of the assistant secretary.**

29 **§1200.18.9. Penalties**

30 **A. If a payor fails to submit required data to the database on a timely**

1 basis, fails to correct submissions rejected because of errors, or otherwise does
 2 not comply with the provisions of this Subpart or the rules and regulations
 3 promulgated to carry out the provisions of this Subpart, the assistant secretary
 4 shall provide written notice to the payor. The assistant secretary may grant an
 5 extension of time for just cause. The assistant secretary may assess a fine not to
 6 exceed five hundred dollars per day for noncompliance after written notice and
 7 opportunity to cure the noncompliance. In determining whether to impose a
 8 penalty, the assistant secretary may consider mitigating factors, including the
 9 size and sophistication of a payor, the reasons for the failure to report, and the
 10 detrimental impact upon the public purpose served by the database.

11 B. The assistant secretary may impose an additional administrative
 12 penalty of not more than ten thousand dollars per day for those violations the
 13 assistant secretary finds were willful. In addition, any person who knowingly
 14 fails to comply with the confidentiality requirements of this Section or
 15 confidentiality rules adopted pursuant to this Section and uses, sells, or
 16 transfers the data or information for commercial advantage, pecuniary gain,
 17 personal gain, or malicious harm shall be subject to an administrative penalty
 18 of not more than fifty thousand dollars per violation.

19 * * *

20 §1203.2. Electronic medical billing and payment; prior authorization

21 A.(1) Beginning July 1, 2027, all claims for medical services rendered
 22 shall be submitted to a workers' compensation payor in electronic format. The
 23 assistant secretary shall adopt rules and regulations regarding the electronic
 24 submission, processing, and payment of workers' compensation- related medical
 25 bills, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.
 26 "Electronic claim" means a claim submitted by a healthcare provider, or its
 27 agent to a workers' compensation payor in an 837 (ASC X12N 837) format or
 28 its successor, adopted by the United States Department of Health and Human
 29 Services, or its successor, in compliance with the provisions of the Health
 30 Insurance Portability and Accountability Act (42 U.S.C. 1302d et seq., and 45

1 CFR Parts 160 and 162), that includes all of the following:

2 (a) Data that is required according to the United States Department of
 3 Health and Human Services standards for electronic transactions.

4 (b) Data that becomes required due to the situation according to the
 5 United States Department of Health and Human Services standards for
 6 electronic transactions.

7 (2)(a) Such rules shall take effect no later than January 1, 2012. Within five
 8 business days of receipt of an electronic claim, a workers' compensation payor
 9 or its agent shall review the entire claim and, if the workers' compensation
 10 payor determines that the claim is not an accepted claim, issue an exception
 11 report to the provider or its agent indicating all defects or reasons known at
 12 that time that the claim is not an accepted claim. A provider who submits a
 13 claim that is not an accepted claim shall be deemed to have timely submitted a
 14 claim for the payment of covered healthcare services if the health insurance
 15 issuer or its agent fails to notify the healthcare provider, or the healthcare
 16 clearinghouse from which the claim was received, of all defects or reasons
 17 known at that time that the claim is not an accepted claim as required by this
 18 Subsection.

19 (b) The exception report shall contain, at a minimum, all of the following
 20 information, if known at that time, for each claim submitted:

21 (i) Patient name.

22 (ii) Provider claim number, patient account number, or unique
 23 identification number.

24 (iii) Date of service.

25 (iv) Total billed charges.

26 (v) Exception report issuer's name.

27 (vi) The date upon which the exception report was generated.

28 B. The following groups shall make provisions for such an electronic claims
 29 system: Workers' compensation payors shall adopt appropriate handling
 30 procedures approved by the office for the acceptance of electronic claim

1 submissions. The procedures shall include but not be limited to all of the
2 following:

3 (1) ~~Insurance carriers shall accept medical bills electronically submitted by~~
4 ~~health care providers, in accordance with the rules promulgated.~~ A process for
5 electronically recording the time and date of actual receipt of electronic claims.

6 (2) ~~Health care providers shall accept payment of medical claims submitted~~
7 ~~electronically by insurance carriers, in accordance with the rules promulgated.~~ A
8 process for electronic review of transmitted claims that assures all electronic
9 claims received are reviewed for determination of whether the claims are
10 deemed accepted in accordance with Subsection A of this Section.

11 (3) A process for reporting all claims not accepted and all defects or
12 reasons known at that time that the claims were not accepted or rejected.

13 C. ~~On or after January 1, 2012, the~~ The assistant secretary may create and
14 maintain a statewide electronic prior authorization portal for purposes of
15 approving medical care in accordance with R.S. 23:1142. The portal shall have
16 the capability to track and document prior authorization requests, responses,
17 and supporting medical documentation. The assistant secretary may conduct
18 pilot programs limited to specific geographic areas or specific workers'
19 compensation payors prior to initiating and maintaining the portal for statewide
20 use by all workers' compensation payors. The assistant secretary may adopt
21 additional rules and regulations, in accordance with the Administrative Procedure
22 Act, R.S. 49:950 et seq., regarding the creation, operation, and maintenance of an
23 electronic exchange of medical claims information for purposes of approving
24 medical care in accordance with R.S. 23:1142.

25 D. ~~(1) Nothing shall prohibit the assistant secretary from promulgating and~~
26 ~~adopting rules and regulations, in accordance with the Administrative Procedure Act,~~
27 ~~R.S. 49:950 et seq., regarding the development and implementation of a centralized~~
28 ~~data warehouse for the collection of medical billing and payment data.~~ No later than
29 January 1, 2031, the assistant secretary shall develop and implement a Workers'
30 Compensation Medical Quality and Outcomes Program designed to measure,

1 evaluate, and improve the quality and effectiveness of medical care provided to
2 injured employees pursuant to this Chapter.

3 (2) The program shall complement the purposes of the workers'
4 compensation system by maintaining measurable indicators of quality and
5 outcomes, which may include but not be limited to any of the following:

6 (a) Time to return to work.

7 (b) Functional improvement measures.

8 (c) Duration of disability and medical treatment episodes.

9 (d) Utilization of evidence-based treatment guidelines.

10 (3) In order to support the program, the office may collect and analyze
11 data from the database.

12 (4) The office may develop mechanisms to identify best practices that
13 improve recovery and return-to-work outcomes.

14 (5) The office may adopt rules in accordance with the Administrative
15 Procedure Act as necessary to implement the provisions of this Section.

16 Section 4. R.S. 44:4.1(B)(12) is hereby amended and reenacted to read as follows:

17 §4.1. Exceptions

18 * * *

19 B. The legislature further recognizes that there exist exceptions, exemptions,
20 and limitations to the laws pertaining to public records throughout the revised
21 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
22 limitations are hereby continued in effect by incorporation into this Chapter by
23 citation:

24 * * *

25 (12) R.S. 23:1177, 1197, 1200.7, 1200.18.1, 1291, 1292, 1293, 1306, 1660,
26 1671

27 * * *

28 Section 5. Beginning no later than July 1, 2029, the assistant secretary of the office
29 of workers' compensation administration shall initiate formal rulemaking to update and
30 modernize the workers' compensation medical fee schedule using data derived from the All

1 Workers' Compensation Medical Claims Database established pursuant to this Act. The
2 updated fee schedule shall do all of the following:

- 3 (1) Be based on empirical Louisiana-specific payment data.
- 4 (2) Provide transparency in methodology, including statistical assumptions.
- 5 (3) Promote adequate access to quality care for injured workers.
- 6 (4) Support cost predictability and system stability for employers and insurers.

7 The methodology for percentile calculation, data exclusions, geographic adjustments,
8 and statistical smoothing shall be published in detail and be included in the notice of intent
9 for rulemaking for public review.

10 In developing the inpatient and outpatient hospital services and ambulatory surgery
11 services reimbursement amounts, the administrator shall do all of the following:

- 12 (1) Analyze allowed amounts and paid amounts reflected in the database.
- 13 (2) Evaluate reimbursement percentiles for comparable services across geographic
14 regions.
- 15 (3) Consider access to care metrics, including provider participation rates and
16 treatment timeliness.
- 17 (4) Review utilization patterns and cost drivers by procedure category.

18 The methodology for percentile calculation, data exclusions, geographic adjustments,
19 and statistical smoothing shall be published in detail and be included in the notice of intent
20 for rulemaking for public review.

21 No revised fee schedule adopted pursuant to this Section shall become effective
22 unless approved by the legislature and signed by the governor. The assistant secretary of the
23 office of workers' compensation administration shall submit:

- 24 (1) The proposed fee schedule.
- 25 (2) The published methodology.
- 26 (3) The actuarial impact analysis.

27 Not later than thirty days prior to the start of the 2029 Regular Session of the
28 Legislature, the assistant secretary shall submit a written report to the legislature. The report
29 shall be submitted for the purpose of assisting the legislature in the development and
30 consideration of future legislation establishing or revising a medical fee schedule or

1 reimbursement methodology for workers' compensation medical services. The report shall
2 include, to the extent practicable and based upon data available to the office, an analysis of
3 medical charges, allowed amounts, paid amounts, reimbursement patterns, utilization,
4 provider access, and other factors relevant to the establishment of a workers' compensation
5 medical fee schedule. The report shall include the following:

6 (1) A summary of charge, allowed amount, and paid amount data by procedure code,
7 provider type, specialty, place of service, and geographic area.

8 (2) An analysis of median, average, and percentile-based reimbursement amounts,
9 including the twenty-fifth percentile, seventy-fifth percentile, and ninetieth percentile, where
10 sufficient data exists.

11 (3) A comparison of workers' compensation reimbursement amounts to Medicare
12 reimbursement amounts, including the percentage of Medicare paid by code, service
13 category, provider type, specialty, and facility setting, where applicable.

14 (4) An analysis of allowed-to-charge ratios and variations in billed charges, allowed
15 amounts, and paid amounts.

16 (5) Identification of high-volume and high-cost services, including professional
17 services, hospital outpatient services, ambulatory surgical center services, imaging, physical
18 medicine, pain management, orthopedic services, and other categories determined relevant
19 by the assistant secretary.

20 (6) An analysis of utilization patterns, including units of service, frequency of
21 services, treatment intensity, and variation by injury type, provider type, specialty, and
22 geographic area, where such information is available.

23 (7) An analysis of outlier billing, reimbursement, or utilization patterns, including
24 unusual variations, excessive units, upcoding, unbundling, duplicate billing, or other patterns
25 that may affect the reliability of fee schedule development.

26 (8) An analysis of provider access, including provider participation, appointment
27 availability, geographic access, and any available information regarding delays in care,
28 denial patterns, or treatment disputes.

29 (9) An analysis of total medical cost by claim or injury episode, including, where
30 available, the relationship between reimbursement, utilization, disability duration, return-to-

1 work outcomes, litigation, and claim closure.

2 (10) A discussion of potential reimbursement methodologies, including Medicare-
3 based multipliers, percentile-based reimbursement, blended methodologies, geographic
4 adjustments, service-category adjustments, or other approaches used in workers'
5 compensation medical fee schedules.

6 (11) Identification of data limitations, assumptions, exclusions, and areas where
7 additional data may be necessary before a medical fee schedule or reimbursement
8 methodology is proposed by legislation.

9 The report shall be informational only and shall not constitute a rule, regulation, fee
10 schedule, reimbursement schedule, maximum allowable reimbursement amount, or proposed
11 medical fee schedule. Nothing in the report shall authorize the assistant secretary or the
12 office to establish, implement, enforce, or require payment pursuant to a medical fee
13 schedule unless expressly authorized by law.

14 Section 6. The provisions of Section 1 of this Act shall only become effective upon
15 approval by the legislature of the updated fee schedule as required in Section 5 of this Act.

16 Section 7. The provisions of R.S. 23:1034.2(F) shall become effective no later than
17 January 1, 2029.

18 Section 8. The provisions of this Section and Sections 2, 3, 4, 5, 6, and 7 of this Act
19 shall become effective upon signature by the governor or, if not signed by the governor,
20 upon expiration of the time for bills to become law without signature by the governor, as
21 provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the
22 governor and subsequently approved by the legislature, this Act shall become effective on
23 the day following such approval.

24 Section 9. Until the adoption and promulgation of a revised reimbursement schedule
25 by the assistant secretary of the office of workers' compensation administration pursuant to
26 R.S. 23:1034.2 and the Administrative Procedure Act, the current reimbursement fee
27 schedule and all rules, regulations, manuals, and reimbursement methodologies in effect
28 prior to the effective date of this Act shall continue to govern reimbursement for medical
29 services rendered under the Louisiana Workers' Compensation Act.

30 Section 10. If a reimbursement schedule for care, services, treatment, drugs, and

1 supplies has not been adopted and implemented on or before July 1, 2029, the assistant
 2 secretary shall, in accordance with the Administrative Procedure Act, promulgate all rules
 3 and regulations necessary to establish, implement, administer, and enforce a reimbursement
 4 schedule for such care, services, treatment, drugs, and supplies. The reimbursement schedule
 5 shall be based upon usual and customary charges derived from the All Workers'
 6 Compensation Medical Bill Database.

7 Section 11. If any provision or item of this Act, or the application thereof, is held
 8 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
 9 which can be given effect without the invalid provision, item, or application and to this end
 10 the provisions of this Act are hereby declared severable.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____