



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division

350 Winter St. NE

P.O. Box 14480

Salem, OR 97309-0405

503-947-7810

Toll free: 800-452-0288

Fax: 503-947-7581

www.wcd.oregon.gov

Industry Notice

March 25, 2020

To: Oregon workers' compensation community

Subject: WCD COVID-19 claims processing

The Workers' Compensation Division has received many questions about how to handle COVID-19 related issues. Given the rapidly evolving situation and the case-specific nature of workers' compensation claims, this notice provides guidance on pressing topics relating to claims processing.

Communication and documentation are key. Workers, employers, insurers, claims processors, attorneys, and medical providers should continue to talk to each other about any delays or issues that arise due to the impact of COVID-19 on normal business practices. All parties should use secure and confidential forms of communication (telephone, fax, U.S. mail, or secure email) to ensure claim information is kept confidential.

Claims processors should clearly document their claim file to explain why certain actions or inactions are occurring. The division will consider these documented impacts when reviewing disputes and claim processing decisions for possible penalties or sanctions. We encourage as much reasonable flexibility and cooperation as possible.

We also understand the impact of social distancing on daily operations of claim processors and others. As noted in our March 17, 2020, [industry notice](#), the division will evaluate requests to communicate electronically with the division on a case-by-case basis.

Medical services by telehealth – temporary fee increase. Implementing social distancing to reduce the spread of COVID-19 is affecting access to in-person health care services. The division encourages providers and workers, whenever possible and medically appropriate, to replace in-person visits with telehealth.

The division has published a [temporary fee schedule](#) for certain services provided on or after March 8, 2020 (the date Gov. Kate Brown declared a public health emergency). The temporary fee schedule increases the payment rates for telephonic and online digital evaluation/assessment and management services to mirror payment rates for an equivalent office visit. This will allow providers to increase their capacity to serve patients by telephone and online digital means.

The Oregon workers' compensation rules do not restrict the services that may be provided through telehealth or the provider types that may use these services. However, all services, regardless of the form of communication, must be appropriate. The form of communication must also be appropriate for the service provided. More information about telehealth and telemedicine are included in the appendix to this notice. Questions about the fee schedule can be sent to wcd.medicalquestions@oregon.gov or call 503-947-7606.

Temporary disability authorization. Reduced access to medical providers has also caused some workers difficulty in obtaining new or ongoing temporary disability (time loss) authorization from their attending physician or authorized nurse practitioner. As noted above, we encourage the use of telehealth and telemedicine to facilitate conversations between workers and their attending physician or authorized nurse practitioner.

Although each claim is unique, a few general reminders apply:

- An open-ended temporary disability authorization continues until changed by the worker’s attending physician or authorized nurse practitioner, unless the provider’s authority to authorize time loss expires under the statute.
- If a provider believes it is medically appropriate, they may extend temporary disability authorizations without physically seeing the patient, so long as that provider has the authority to authorize temporary disability under law and rule. [See Appendix A of OAR 436-010](#) for a summary of who can authorize temporary disability and for how long (outside of a managed care organization).
- Providers should promptly send a copy of any new temporary disability authorization to the insurer and indicate whether the worker’s inability to return to their job at injury is a result of their compensable injury. Providers should also document those actions in chart notes.
- If the provider gives the insurer or employer an oral verification of the worker’s inability to work, temporary disability is authorized. Insurers should include written documentation of this authorization in their records and providers should forward the release when they are able.
- For other questions about specific situations, including how to address temporary disability when workplaces are closed due to COVID-19 restrictions, please contact wcd.askanauditor@oregon.gov.

General information and penalties. The division cannot waive statutory requirements. However, the division will consider the impact of COVID-19 in areas where the director has discretion to penalize or take action against an employer, worker, insurer, self-insured employer, service company, medical provider, or others. We encourage claims processors to communicate with the division ahead of time if you cannot meet timelines, such as providing a timely response to inquiries. Where possible, the division will determine whether an extension or procedural waiver should be granted on a case-by-case basis, including whether COVID-19 is considered “good cause” or “reasons beyond a worker’s control,” where applicable.

Further questions. The Workers’ Compensation Division continues to provide current services with minimal disruption, although many of our employees are working remotely under executive orders issued by Gov. Brown. Our staff is available to answer questions as they arise. Please call or send specific questions to:

- Employer Compliance Unit (employer coverage, insurer coverage reporting): wcd.employerinfo@oregon.gov or 888-877-5670
- Audit Unit (claims processing, audit questions): wcd.askanauditor@oregon.gov
- Appellate Review Unit (reconsideration, medical arbiter): 503-947-7816
- Other questions: workcomp.questions@oregon.gov or 800-452-0288

These are uncharted waters and the situation is changing daily. We appreciate your flexibility and understanding as we all navigate this situation together. We encourage everyone to do their best given the circumstances. The division will issue further guidance as needed.



Sally Coen, Acting Administrator
Workers’ Compensation Division

Appendix – Telehealth and Telemedicine in Oregon Workers’ Compensation

[See OAR 436-009-0040](#)

Telehealth. “Telehealth” may include telephonic services between a provider and a patient and other means of electronic communication, including two-way video, telephone, email, and text.

For services provided on or after March 8, 2020, the division has published a temporary fee schedule, increasing the rates for telephonic (CPT® codes 99441 – 99443 and 98966 – 98968) and online digital (CPT® codes 99421 – 99423 and 98970 – 98972) evaluation/assessment and management services to mirror payment rates for an equivalent office visit.

Physician Phone Call			
Code	Time (Minutes)	Non-Facility	Facility
99441	5-10	\$93.63	\$53.40
99442	11-20	\$154.35	\$106.07
99443	21-30	\$223.84	\$163.12

Physician Online Digital E/M Services			
Code	Time (Minutes)	Non-Facility	Facility
99421	5-10	\$93.63	\$53.40
99422	11-20	\$154.35	\$106.07
99423	>21	\$223.84	\$163.12

Non-Physician Phone Call			
Code	Time (Minutes)	Non-Facility	Facility
98966	5-10	\$79.59	\$45.39
98967	11-20	\$131.20	\$90.16
98968	21-30	\$190.26	\$138.65

Non-Physician Online Digital E/M Services			
Code	Time (Minutes)	Non-Facility	Facility
98970	5-10	\$79.59	\$45.39
98971	11-20	\$131.20	\$90.16
98972	>21	\$190.26	\$138.65

Other telehealth services such as telephone evaluation and management (CPT® codes 99441 – 99443) should not be billed with modifier 95. However, it is appropriate for providers to use POS “02” for telephone or digital evaluation and management services.

Telemedicine. For the purpose of workers’ compensation medical fee and payment rules, “telemedicine” refers to synchronous medical services provided via a real-time interactive audio and video telecommunications system between a patient at an originating site and a provider at a distant site.

The Oregon workers’ compensation rules do not restrict the services that may be provided through telemedicine or the provider types that may use telemedicine services. However all services, regardless of the form of communication, must be appropriate. The form of communication must be appropriate for the service provided.

The division has adopted rules, effective April 1, 2020, that outline the billing codes for telemedicine services. To identify the services as rendered through telemedicine, distant site providers must use modifier 95 and place of service code “02” in their billings.

The rules also do not restrict the originating site or the distant site. This means patients may be at home when receiving services for telemedicine. Similarly, providers are allowed to provide medical services through telemedicine from their home. Payment of a facility fee to the originating site is limited to a health facility (e.g., if the worker is at home), they are not entitled to receive a facility fee payment.

Allowed technologies for telemedicine (temporary). The [U.S. Department of Health and Human Services](#) announced it will not impose penalties for noncompliance with the HIPAA rules in connection with the good faith provision of telemedicine using non-public facing audio or video communication products.

Under these guidelines, only during the COVID-19 national public health emergency, health care providers may use video chats for telehealth or telemedicine with these restrictions:

Allowed: Non-public facing audio or video products such as Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype

Not allowed: Public facing Facebook Live, Twitch, TikTok, or similar video communication applications

When the national public health emergency has ended, providers should review subsequent [U.S. Department of Health and Human Services](#) guidelines as it relates to HIPPA rules.