

**BRUYNS Fred H \* DCBS**

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**From:** Danielle Erb <DErb@brainrehab.com>  
**Sent:** Friday, July 10, 2020 9:50 AM  
**To:** KUNZ Juerg \* DCBS  
**Cc:** ANDERSEN Robert C \* DCBS; VANNESS Jim \* DCBS; BRUYNS Fred H \* DCBS  
**Subject:** RE: Request for advice: Draft proposed and temporary rules posted

Dear Mr. Kunz,

Thank you for your response. I'm surprised about the added facility charge. When I worked at Rehab Med Assoc., at Legacy Good Samaritan, there was no facility charge for an in-office doctor appt. This could be different in other hospitals, but it seems unlikely that Legacy isn't maximizing its billing. However, if a patient has a procedure such as a CT scan, then there is a charge for the procedure paid to the hospital and a charge for the physician who interprets the report. Interestingly, for well over a decade, radiologists have been able to read/interpret films at home; did their reimbursement change at that time? I suspect it didn't. If their reimbursement did not change, i.e. they still received the facility reimbursement rate because they work at a facility, then it would be inconsistent to pay other doctors at the non-facility rate.

Thank you for asking for input,

Danielle L. Erb, MD  
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Subspecialty Certified in Brain Injury Medicine  
Brain Rehabilitation Medicine  
1815 SW Marlow, #110, Portland, OR 97225  
P: 503-296-0918; F: 503-296-6158

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**From:** KUNZ Juerg \* DCBS <Juerg.Kunz@oregon.gov>  
**Sent:** Thursday, July 9, 2020 1:55 PM  
**To:** Danielle Erb <DErb@brainrehab.com>  
**Cc:** ANDERSEN Robert C \* DCBS <Robert.C.Andersen@oregon.gov>; VANNESS Jim \* DCBS <Jim.VanNess@oregon.gov>; BRUYNS Fred H \* DCBS <Fred.H.Bruyns@oregon.gov>  
**Subject:** RE: Request for advice: Draft proposed and temporary rules posted

Dear Dr. Erb,

Thank you for your comments regarding the difference between facility and non-facility rates. We will carefully consider your comments before finalizing the September 21, 2020, rules.

As you noted, the non-facility rate is higher than the facility rate to help pay the physician's overhead. When we drafted these proposed rules, we took into account that most of the time, when a physician gets paid at the facility rate, the insurer will receive a second bill from the facility where the service by the physician is provided at. I don't think that is the case when a service is provided through telehealth. Therefore, it seems more appropriate to pay the physician at the non-facility rate. Interestingly, Medicare pays for telehealth services at the lower rate, i.e. the facility rate, regardless of whether the physician is in his own office or in a facility, e.g., in a hospital.

It is our goal that physicians receive adequate compensation for treating workers' compensation patients. As you know, services provided through telehealth have increase dramatically since the start of the Covid-19

pandemic. I expect that even after tis pandemic, telehealth services will be much more widely used to treat workers' compensation patients than was the case before the pandemic. Going forward, I expect that we may tweak our payment rules as we become better acquainted with the changes that are happening now in the delivery of health care services.

On a personal note, I would like to thank you for your services to Oregon workers' compensation patients during these difficult time!

Sincerely,

Juerg Kunz  
Medical Policy Analyst  
Oregon Workers' Compensation Division  
503-947-7741 / FAX 503-947-7629

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**From:** BRUYNS Fred H \* DCBS <[Fred.H.Bruyns@oregon.gov](mailto:Fred.H.Bruyns@oregon.gov)>

**Sent:** Thursday, July 9, 2020 1:07 PM

**To:** 'Danielle Erb' <[DErb@brainrehab.com](mailto:DErb@brainrehab.com)>; KUNZ Juerg \* DCBS <[Juerg.Kunz@oregon.gov](mailto:Juerg.Kunz@oregon.gov)>

**Cc:** ANDERSEN Robert C \* DCBS <[Robert.C.Andersen@oregon.gov](mailto:Robert.C.Andersen@oregon.gov)>; VANNESS Jim \* DCBS <[Jim.VanNess@oregon.gov](mailto:Jim.VanNess@oregon.gov)>;

BRUYNS Fred H \* DCBS <[Fred.H.Bruyns@oregon.gov](mailto:Fred.H.Bruyns@oregon.gov)>

**Subject:** RE: Request for advice: Draft proposed and temporary rules posted

Good afternoon Dr. Erb,

Thank you for contacting us. I am forwarding your comments to Juerg Kunz, our medical policy analyst, as well as some program managers.

Juerg will get back to you regarding your concerns.

Sincerely,

Fred Bruyns, policy analyst/rules coordinator  
Department of Consumer and Business Services  
Workers' Compensation Division  
503-947-7717; fax 503-947-7514  
Email: [fred.h.bruyns@oregon.gov](mailto:fred.h.bruyns@oregon.gov)



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**From:** Danielle Erb <[DErb@brainrehab.com](mailto:DErb@brainrehab.com)>

**Sent:** Thursday, July 9, 2020 11:47 AM

**To:** BRUYNS Fred H \* DCBS <[Fred.H.Bruyns@oregon.gov](mailto:Fred.H.Bruyns@oregon.gov)>

**Subject:** RE: Request for advice: Draft proposed and temporary rules posted

Dear Mr. Bruyns,

I am confused about the changes below in how “facility” and “non-facility” are being used. For example, previously, non-facility meant a completely independent private practice office versus a doctor’s office that is partially supported by a medical system. For example, I previously worked for Rehab Med Assoc. which is in a legacy building and receives some support from Legacy indirectly like housekeeping, parking lot, internet, on-site lab, hall-way directions and sign, etc. Whereas I now work completely independently and pay for all services; there is no indirect support like “Legacy” a produced policy and signs for Covid-19, etc. The “non-facility” reimbursement is higher to bridge this gap. This is not the same as me doing a Zoom call (on the professional level of zoom at my cost) at my house versus at my clinic. Either way it is “non-facility”. But if a Legacy doctor does a zoom call at their home on the Legacy system versus at the clinic it’s still “facility”. One other way to think is if a Providence doctor does video appointments at home some days and at the clinic other days to reduce the number of people on site, they shouldn’t get paid more for being at home than being in the office. Either way, Providence is providing the video platform and the physician is not paying rent for an empty office.

I hope this makes sense. Maybe I have interpreted this incorrectly as I’m a physician, not a biller, but Dr. Craven did not understand this distinction when we had the call on 5-22. From his perspective, as a facility, Kaiser, it does seem unfair that they are reimbursed at a lower rate, but especially during this Covid time, I can assure you that being a small business owner, not seeing patients, but still paying rent, utilities and staff was quite different than doctors in a facility clinic. Also, as we reopened, I had to research and write all my own policies, measure 6-feet between chairs, print my own signs, buy all my PPE, etc. I really saw the benefit of a system. Let alone the purchasing power of a bigger system buying in bulk, my non-oral, no touch thermometer just arrived yesterday!!!

**Danielle L. Erb, MD**

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### **436-009-0040 Fee Schedule**

#### **(I) Fee Schedule Table.**

(a) Unless otherwise provided by contract or fee discount agreement allowed by these rules, insurers must pay according to the following table:

<b>Services</b>	<b>Codes</b>	<b>Payment Amount:</b>	
Services billed with <b>CPT®</b> codes, <b>HCPCS</b> codes, or Oregon Specific Codes ( <b>OSC</b> ):	Listed in Appendix B and performed in medical service provider’s office	Lesser of:	Amount in non-facility column in Appendix B, or Provider’s usual fee
	Listed in Appendix B and <b>not</b> performed in medical service provider’s office	Lesser of:	Amount in facility column in Appendix B*, or Provider’s usual fee