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Summary of Text of addition of Part 324 and § 325-1.25, amendment of §§ 325-1.2, 325-1.3, 325-.14, and 315-1.24, and repeal of § 325-1.6 of 12 NYCRR

The proposed adopts and mandates the use of treatment guidelines for workers' compensation injuries or illnesses to the neck, back, shoulder, and knee, and amends other provisions to support the guidelines.

Section 300.23 (d) is amended to state that it does not apply when a request for a variance is denied.

A new Part 324 is added to Subchapter C regarding Medical Treatment Guidelines. Section 324.1 defines relevant terms used in this Part including "Maximum Medical Improvement," "Medical Treatment Guidelines," "Review of Records," and "Treating Medical Provider."

Section 324.2 mandates treatment in accordance with the Medical Treatment Guidelines for the mid and low back, neck, knee, and shoulder, which are incorporated by reference, for all work related injuries or illnesses on an after October 18, 2010, regardless of the date of accident or date of disablement. Establishes a list of pre-authorized procedures pursuant to Workers' Compensation Law §13-a (5), which includes all medical care consistent with the Medical Treatment Guidelines except for 12 treatments or procedures. Provides that variances from the Medical Treatment Guidelines are only allowed as provided in §324.3.

Section 324.3 sets forth what is required to request a variance, that the burden of proof is on the treating medical provider that a variance is medically necessary and appropriate, the requirements related to a response to a variance, including the time period in which a response must be made, and how denials of variances are resolved.

Section 324.4 sets for an optional prior approval process whereby a treating medical provider can request approval from the insurance carrier or Special Fund that the treatment is consistent with the Medical Treatment Guidelines before it is performed. This section establishes how providers can opt-in to the program and makes a request, how insurance carriers can opt-out of the process, how insurance carriers who participate respond to a request, and how denials are resolved.

Section 324.5 provides that if the Medical Treatment Guidelines do not address a condition, treatment or diagnostic test for a part of the body covered by the Medical Treatment Guidelines, then the factors in necessary to request a variance shall be used to determine whether the insurance carrier or Special Fund is obligated to pay for the medical care at issue.

Section 324.6 requires insurance carriers and Special Fund to incorporate the Medical Treatment Guidelines and relevant regulatory provisions into their policies, procedures, and practices, and certify that this has been completed within 120 days of the effective date of Part 324.

Section 325-1.2 is amended to require specialists and consultants to file the same medical report forms used by treating providers.

Section 325-1.3 is amended to require medical reports of attending physicians be filed on the correct version of the form or forms prescribed by the chair for such purpose and that medical


reports must be filed when a follow-up visit is necessary except the time between follow-up visits cannot exceed 90 days.

Section 325-1.4 regarding prior authorization for special services is amended to clarify and modify the procedure so it reflects the procedures actually used currently, make clear the ability of physical and occupational therapists to request prior authorization, clarify when prior authorization is necessary when multiple special services are to be performed, and incorporate the pre-authorized list from Section 324.2 (d) of this Title.

Section 325-1.6 is repealed.

Section 325-1.24 is amended to limit its applicability to bills for medical services provided on and after October 1, 1994, and before October 18, 2010.

Section 325-1.25 is added to set forth the process for the submission of medical bills, the time in which medical bills must be paid and/or objected to, the objections that can be raised, and the resolution of objections.

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