

PMA Workers' Compensation Bulletin Delaware Reform—August 2011

On August 17, 2011, Delaware Governor Jack Markell signed SB108 into law. As a result, the Delaware workers' compensation law changed in two key areas—Employer's Modified Duty Form and Out-of-State Provider Fees.

PMA Companies has prepared the following overview to keep you informed of these changes to the Delaware workers' compensation system.

Employer's Modified Duty Availability Report

Employers now need to complete the Employer's Modified Duty Availability Report form within 14 days of receiving the "Physician's Report of Workers' Compensation Injury." Previously, employers were required to complete the form within "14 days of receiving a notice of injury."

This change was intended to allow employers to know the injured worker's physical limitations before identifying available modified duty positions.

You can access the Employer's Modified Duty Availability Report form from the following sources:

- PMA website http://www.pmagroup.com/DE_WorkCompMaterials.htm
- Delaware Department of Labor website: <http://dowc.ingenix.com/info.asp?page=forms>

Out-of-State Provider Fees

The second change brought about by SB108 involves reimbursement for out-of-state providers.

Healthcare providers who are licensed or permitted to provide procedures, treatment, or service in Delaware and provide these outside of Delaware shall be reimbursed according to the amount set forth in the Delaware Workers' Compensation Health Care Payment System. That is, if a provider is licensed to render treatment in Delaware but performs the treatment outside of Delaware, the amount of reimbursement is as set forth in the Delaware Health Care Payment System. As you may be aware, some Delaware providers were setting-up out-of-state facilities to obtain the higher reimbursement rates.

If a procedure, treatment, or service is provided outside of Delaware by a provider, hospital, or Ambulatory Surgical Center not licensed or permitted to provide such procedure, treatment, or service in Delaware, the amount of reimbursement shall be the greater of:

- The amount set forth in the workers' compensation health care system or fee schedule in the state in which the treatment is provided, or
- The amount authorized by the payment system in the zip code in which the injury occurred or where the employee was principally assigned.

For additional information, please contact your PMA Representative.