

**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
THIRTY-FOURTH AMENDMENT TO 11 NYCRR 68  
(INSURANCE REGULATION 83)**

**CHARGES FOR PROFESSIONAL HEALTH SERVICES**

I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, and Sections 301, 2601, 5221, and Article 51 of the Insurance Law, do hereby promulgate the following Thirty-Fourth Amendment to Part 68 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 83), to take effect upon the filing with the Secretary of State of New York, to read as follows:

**(NEW MATTER IS UNDERSCORED; MATTER IN BRACKETS IS DELETED)**

Section 68.1 is amended to read as follows:

**§ 68.1 Adoption of certain workers' compensation schedules**

(a) The existing fee schedules prepared and established by the [chairman] chair of the Workers' Compensation Board for industrial accidents are hereby adopted by the Superintendent of Financial Services with appropriate modification so as to adapt such schedules for use pursuant to the provisions of [section 5108 of the] Insurance Law section 5108.

(b)(1) The charges for services specified in [paragraph one of subsection (a) of section 5102 of the] Insurance Law section 5102(a)(1) and any further health service charges [which] that are incurred as a result of the injury and [which] that are in excess of basic economic loss, shall not exceed the charges permissible under the schedules prepared and established by the chair of the Workers' Compensation Board for industrial accidents. However, references to workers' compensation reporting and procedural requirements in such schedules do not apply to no-fault, e.g., requirements that provide for authorization to perform surgical procedures[, is not applicable to no-fault]. The general instructions and ground rules in the workers' compensation fee schedules apply, but those rules [which] that refer to workers' compensation claim forms, pre-authorization approval and dispute resolution guidelines do not apply, unless specified in this Part.

(2) Notwithstanding subdivision (a) of this section, when charges for services prepared and established by the chair of the Workers' Compensation Board pursuant to paragraph (1) of this subdivision are increased by the chair, any such increases shall not be effective for no-fault until eighteen months after the effective date of the increases established by the chair. The superintendent may upon notice in the state register adopt any such charge increases prior to the expiration of the eighteen-month period if the superintendent determines that it would be in the best interest of consumers.

(3) If a fee schedule has been adopted for a licensed health provider, the fee for services provided shall be the fee adopted or established for that licensed health provider (for example, the fee for chiropractic services performed by a chiropractor employed by a physician would be the fee applicable for chiropractic services as contained in the Chiropractic Fee Schedule). However, if the Workers' Compensation Fee Schedule contains a specific ground rule to permit reimbursement at the physician rate then that rule will apply. (For example, the

fee for services performed by a physical or occupational therapist employed by a physician would be the fee applicable at the physician rate in accordance with Ground Rule Nine contained in the Workers' Compensation Physical Medicine Fee Schedule).

[(3)] (4) A ["licensed health provider"] *licensed health provider* means a licensed healthcare professional acting within the scope of his or her licensure or an entity, including a pharmacy properly formed in accordance with applicable law and acting within the scope of its license.