

RULES AND REGULATIONS FOR PALLIATIVE CARE

1. Palliative care is defined as the first twelve (12) visits for medical services provided by a physician licensed by the State after maximum medical improvement has been attained.

Palliative care involves reasonable and necessary medical services in order to cure, rehabilitate or relieve an employee from the effects of his or her injury, including infrequent re-examination for prevention of further deterioration and follow-up examinations related to the administering of medications. Palliative care does not include extensive diagnostic tests, comprehensive treatment programs, or frequent services of any type.
2. Additional palliative care beyond the first twelve (12) visits after the employee reaches maximum medical improvement is conditioned on the authorization of the insurer or self-insured employer upon the request of the employee's treating physician..
3. A request for additional palliative care shall be submitted to the insurer or self-insured employer by the employee's treating physician at least ten (10) working days prior to the delivery of the medical services, and shall include:
 - a. the nature and frequency of the proposed examinations;
 - b. a treatment plan;
 - c. said plan's reasonable objectives;
 - d. a time-table for achieving said objectives,
 - e. a projected termination date of treatment; and,
 - f. the estimated total cost for said additional palliative care.

Said request for additional palliative care shall be submitted by the treating physician with a copy forwarded to the employee on a form prescribed by the Department of Labor (DWC-40).

4. Upon receipt of a request for additional palliative care, the insurer or self-insured employer shall respond to said request in writing and forward a copy thereof to the employee within five (5) working days of the receipt of said request. The response shall either deny, approve or modify said request and state the reasons in support thereof.
5. The Department of Labor shall exercise jurisdiction over controversies arising between the employee and the insured or self-insured employer upon the filing of a Request for Review of Additional Palliative Care form (DWC-41), thereby commencing the following procedure:
 - a. A prehearing conference between the parties and/or their legal representatives shall be convened before the Director or the Director's designee in order to afford every opportunity to settle the matter prior to the hearing. Said prehearing conference shall be scheduled no later than 30 days from the filing date of the Request for Review of Additional Palliative Care form (DWC-41). In the event that said settlement is made, the parties shall immediately file a consent order with the Department of Labor, thereby rendering a final disposition of the matter. Should the parties fail to agree to settlement, the matter shall be scheduled for a formal evidentiary hearing. No consent order shall be entered on the date of hearing without the approval of the Director or the Director's designee. If such a consent order is approved, the parties shall be assessed hearing costs;
 - b. In the event that the parties fail to agree upon settlement, notice of hearing shall be served upon said parties, therein providing the following information:
 1. the time, place and nature of the hearing;
 2. the legal authority and jurisdiction under which the hearing is to be held; and,
 3. an order requiring the parties to file memoranda which provide a statement of facts and the applicable law relating to the issues of the case no later than seven (7) days prior to said hearing.
 - c. Attorneys who represent a party pursuant to the within Rules and Regulations shall be admitted to the bar in accordance with the rules of the Supreme Court

of Rhode Island unless otherwise granted permission by the Director or the Director's designee to enter pro hac vice with local counsel;

- d. Continuances shall be granted only upon the filing of:
 - 1. a stipulation indicating agreement to a continuance signed by the attorneys or the parties if entered pro se; and,
 - 2. affidavits signed by each party verifying their consent to said continuance. In addition, the parties shall be assessed hearing costs, if any.
- 6. Hearings shall be recorded by a reporter designated by the Department of Labor, and the transcription produced shall be the sole official record of the proceeding. The parties may order copies of the transcript at their own expense. After closing of the record, there shall not be received in evidence or included as part of the record any document submitted thereafter, except by agreement of the parties or by order of the hearing officer.
- 7. The order of the Director or the Director's designee is final. An aggrieved party has the right to judicial review in accordance with the provisions of Chapter 30, Title 28 of the Rhode Island General Laws. In the event that an application for judicial review is made, the appellant shall order a copy of the transcript and file same with the Department of Labor prior to the date ordered by the Workers' Compensation Court for transmittal of the record. Costs associated with the application for judicial review, including the cost of the transcript, shall be the responsibility of the appellant.

Edna S. Poulin, Director

Date