



**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

**NOTICE OF INTENT TO ACT ON PROPOSED REGULATIONS
(NOTICE OF PUBLIC HEARING)**

The Division of Industrial Relations, Department of Business and Industry, State of Nevada (the "Division"), will conduct a public hearing to receive comments from all interested persons on adding new provisions to Chapter 616C of NAC regarding providing medical benefits to injured employees by telemedicine.

The public hearing on proposed regulations will be conducted, via videoconference at 9:00 a.m., February 19, 2013 at the following locations:

Sawyer Building
555 East Washington Avenue
Suite 5100
Las Vegas, Nevada

Governor's Office
101 North Carson Street
Guinn Room
Carson City, Nevada

Pursuant to NRS 233B.0603, the Division is providing the following information pertaining to the public hearing and the proposed regulations.

The need and purpose of the proposed regulations: The Division is conducting the public hearing to adopt a proposed regulation authorizing providing medical benefits by telemedicine to Nevada's injured employees. The Division may adopt provisions to the medical fee schedule which are necessary to carry out this provision.

The terms and substance of the proposed regulations: The Division will adopt a regulation that will standardize the requirements for telemedicine services provided to Nevada's injured employees as a benefit according to the provisions in Chapter 616C of NAC.

The estimated cost to the Division for enforcement of the proposed regulations: The Division estimates that the cost of collection and disbursement is minimal. The legislative changes and the regulations necessary to implement and enforce them do not appear to place a significant economic burden on the Division.

The Division believes that the proposed regulation does not overlap or duplicate any existing regulations. The proposed regulation is not required by federal law; and there is no equivalent federal law.

The proposed regulation does not establish a new fee or increase an existing fee. However, the proposed regulation creates a fee which a workers' compensation insurance carrier, self-insured employer or self-insured association of employers may agree to incur to provide medical benefits to an injured employee by telemedicine.

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately, (i) adverse and beneficial effects, and (ii) immediate and long-term effects: The Division anticipates that adopting regulations adding telemedicine as a benefit for injured employees, as listed

above, may have an adverse effect on regulated businesses (i.e. workers' compensation insurance carriers, self-insured employers and associations of self-insured employers).

A separate reimbursable item will be added to the Medical Fee Schedule which may increase costs to insurers that could mostly be passed along to employers through increased insurance premiums. The net cost increase is difficult to determine because of the anticipated decreased per diem costs to injured employees. However, injured employees will benefit as they will now have access to specialty medical evaluation or consultation from a distant location without the necessity of traveling.

The Division does not anticipate any economic effect, either immediate or long-term, on the public.

The Division invites representatives of regulated businesses and the public to attend the public hearing and/or prepare written and/or oral comments concerning the proposed regulation. Interested persons may submit written comments to Terry Simi, Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074. If no person who is directly affected by the proposed regulation appears to make oral comments, the Division will proceed immediately to act upon any written submissions.

Persons with disabilities who require special accommodations or assistance at the public hearing must notify Cris Carmona, in writing, at least three (3) working days prior to the hearing, at the Division of Industrial Relations at 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074 or by calling (702) 486-9113.

A copy of the proposed regulation is available at the Division's web page (<http://www.dirweb.state.nv.us/WCS/wcs.htm>), the Division's offices (400 West King, Suite 210, Carson City, Nevada; 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada; 4600 Kietzke Lane, Suite F-153, Reno, Nevada; 350 W. Silver Street, Suite 230, Elko, Nevada; 610 Melarkey Street, Winnemucca, Nevada; and State House Complex, 1100 Erie Main, Suite #3, Tonopah, Nevada) and at the main branch of the public library of each county.

Notice required by NRS 233B.064: Upon adoption of any regulation, the agency (the Division), if requested to do so by an interested person, either before adoption or thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted at the Division's offices; the Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada; Director's Office, Department of Business and Industry, 555 E. Washington Avenue, #4900, Las Vegas, Nevada; the Bradley Building, 2501 West Sahara Avenue, Las Vegas, Nevada; and the Nevada State Library and Archives, 100 Stewart Street, Carson City, Nevada.

STATE OF NEVADA
DIVISION OF INDUSTRIAL RELATIONS
SMALL BUSINESS IMPACT STATEMENT

This statement was prepared to comply with NRS 233B.0608 and 233B.0609. This statement addresses the fiscal impact of the possible addition of reimbursement for telemedicine services to the Nevada Medical Fee Schedule, new telemedicine regulations, and related matters.

To determine whether these regulatory matters are likely to have an impact on small businesses, the Division considered the purpose and scope of the proposed and potential regulation changes in conjunction with existing regulations. Based on this review, the Division determined that creating reimbursement for telemedicine services may have an adverse affect on small businesses.

A separate and substantial reimbursable item added to the Medical Fee Schedule will likely increase costs to insurers that would mostly likely be passed along to employers. The net cost increase is difficult to determine due to some degree of cost offset from anticipated decreased per diem costs. However, injured employees will benefit as they will now have access to medical evaluation, along with limited treatment, from a distant location.

The Division anticipates that changing the Medical Fee Schedule and adopting regulations to address reimbursement for telemedicine services may have possible adverse effects on many small businesses in the short-term as insurers raise rates to pay for this new reimbursement. However, it may also generate long-term beneficial economic effects on small businesses due to increased longevity and productivity of injured workers who are able to return to work faster and spend less time off work traveling long distances for treatment.

**PROPOSED REGULATION OF THE DIVISION OF INDUSTRIAL RELATIONS,
WORKERS' COMPENSATION SECTION FOR AN ADDITION TO
CHAPTER 616C, NAC**

LCB File No.

January 15, 2013

EXPLANATION — Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

NRS 616A.400; NRS 616A.405; NRS 233B.100; NRS 233B.120.

A REGULATION adding new provisions to Chapter 616C of NAC regarding providing medical benefits by telemedicine.

Section 1. Chapter 616C of NAC is hereby amended by adding thereto the provisions set forth as Sections 1 to 5, inclusive, in this regulation.

Sec. 2. *“Telemedicine services” defined. Telemedicine services are services provided to an injured employee at an originating site, rural healthcare facility by a consulting physician or chiropractor located at a distant site in an urban healthcare facility and medical information is communicated between the injured employee and consulting physician or chiropractor in real-time with the use of simultaneous interactive audio and video communication equipment.*

Sec. 3. *Telemedicine services for each appointment must be:*

- 1. Authorized at least 5 business days in advance in writing by the insurer or third party administrator; and*
- 2. Approved at least 5 business days in advance in writing by the injured employee, unless the injured employee and insurer or third-party administrator agree to a shorter period.*

Sec. 4. *Unless otherwise authorized by the insurer or third-party administrator, the physician or chiropractor at the originating site where the injured employee is located shall be considered the treating physician or chiropractor.*

Sec. 5. *Telemedicine services shall be paid if they are authorized as described in Section 3 of this regulation. The injured employee must be present throughout the evaluation. Payment is as described in the current Medical Fee Schedule.*

PROPOSED MEDICAL FEE SCHEDULE INSERT

Nevada Specific Code:

NV00250 Telemedicine originating site fee\$188.40

Reimbursement for rural facilities billing an originating site fee for telemedicine services will include all general supplies, technical services, professional services and costs for the telemedicine transmission. Diagnostic or other procedures performed in conjunction with a telemedicine visit are separately reimbursable if prior authorization is obtained, pursuant to NAC 616C.129. The consulting physician or chiropractor at the distant site should bill using the appropriate CPT code with a GT modifier.