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TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule LSA Document #05-266

DIGEST

Amends 760 IAC 1-60-5 regarding the Indiana Patient's Compensation Fund surcharge rates for fellowships, part-time and locum tenen physicians. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to this Rule:

Pursuant to IC 34-18-5-3, the Department of Insurance shall set surcharge rates for health care providers to participate in the Indiana Patient's Compensation Fund at a rate that is determined by actuarial principles and is adequate for the payment of claims and expenses from the Patient's Compensation Fund. Physicians who work fewer than 40 hours in a week and physicians who participate in fellowship programs are affected by this proposed rule. The Department has no way to identify how many physicians fall into this category.

Estimated Average Annual Administrative Costs that Small Businesses will Incur:

The proposed rule adds no administrative costs to small businesses.

Estimated Total Annual Economic Impact of Small Businesses:

The Department has determined that the credits for part-time physicians and the charge for fellowship programs are currently not appropriate for the risks that are insured. It is expected that more physicians will receive a credit for working part time. We believe that physicians that work 24 hours or 36 hours were not getting an appropriate discount. The proposed amendment will do so. Those that work 24 hours in a week will get a reduction in the annual surcharge equal to 50 percent; those that work 36 hours in a week will received a reduction equal to 25 percent. Persons in fellowships will pay the surcharge that is applicable to the work that they are performing. If the fellowship is the majority of their work, then the specialty class of that fellowship will control; if the fellowship is incidental, then their primary practice will dictate which specialty class surcharge code is applied.

Regulatory Flexibility Analysis of Alternative Methods:

The Department of Insurance is directed to set surcharge rates by actuarial principles and is adequate for the payment of claims and expenses from the Patient's Compensation Fund. The Department consulted with an actuary to review the sufficiency of the current rates and was advised that adjustments should be made. The financial impact is not significant and should be mostly positive to the individual physician.

760 IAC 1-60-5

SECTION 1. 760 IAC 1-60-5 IS AMENDED TO READ AS FOLLOWS:

760 IAC 1-60-5 Part-time and retired physicians

Authority: IC 34-18-5-2

Affected: IC 25-22.5-1-1.1

Sec. 5. (a) A physician who practices medicine on a part-time basis shall pay a reduced surcharge as follows:

- (1) A physician who practices medicine ~~ten (10)~~ **twelve (12)** hours per week or less shall receive a credit equal to seventy-five percent (75%) of the surcharge amount.
- (2) A physician who practices medicine more than ~~ten (10)~~ **twelve (12)** hours but ~~less fewer than twenty (20)~~ **twenty-five (25)** hours per week shall receive a credit equal to fifty percent (50%) of the surcharge amount.
- (3) **A physician who practices medicine more than twenty-five (25) hours per week but fewer than thirty-one (31) hours per week shall receive a credit equal to twenty-five percent (25%) of the surcharge amount.**

(b) Medical school faculty shall receive a credit equal to sixty-seven percent (67%) of the surcharge amount. As used in this subsection, "medical school faculty" means a physician engaged in research or teaching at a medical school as defined in IC 25-22.5-1-1.1(h). To be eligible for the credit, ~~no~~ **not** more than thirty percent (30%) of the physician's time may be spent treating patients whose treatment is unrelated to the physician's duties at the medical school.

(c) Newly licensed physicians shall receive a credit equal to fifty percent (50%) of the surcharge amount during their first year of practice and twenty-five percent (25%) during their second year. For purposes of this subsection, a physician is considered newly licensed for two (2) years after:

- (1) completion of a residency program ~~or a fellowship program~~ in their medical specialty; or
- (2) the fulfillment of a military obligation in remuneration for medical school tuition.

(d) A physician participating in a fellowship program shall pay the following:

(1) If the fellowship is full time and the physician is engaging in no other medical practice, the physician shall pay an annual surcharge equal to fifty percent (50%) of the surcharge due for the specialty class of the fellowship.

(2) If the physician is engaging in a medical practice outside of the fellowship, the physician shall pay the greater of the following:

(A) The full-time surcharge due for the medical practice outside of the fellowship.

(B) Fifty percent (50%) of the surcharge due for the specialty class of the fellowship.

For purposes of this subsection, "part-time" has the meaning described in subsection (a)(2).

~~(d)~~ **(e)** A retired physician shall pay an annual surcharge in the amount of five hundred dollars (\$500).

~~(e)~~ **(f)** **Not** more than one (1) credit may be applied to a physician in any policy year. (*Department of Insurance; 760 IAC 1-60-5; filed Oct 23, 1998, 2:45 p.m.: 22 IR 756; filed Aug 6, 1999, 2:35 p.m.: 22 IR 3936; filed Apr 26, 2004, 2:00 p.m.: 27 IR 2730, eff Jul 1, 2004*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on May 9, 2006 at 11:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana the Department of Insurance will hold a public hearing on proposed amendments to 760 IAC 1-60-5 regarding the Indiana Patient's Compensation Fund surcharge rates for fellowships, part time and locum tenen physicians.

The Department must set surcharges rates for coverage with the Patient's Compensation Fund by actuarial principles. The surcharge rate must be adequate for the payment of claims and expenses from the Patient's Compensation Fund. The proposed rule affects small employers that physicians who work part time or participate in a fellowship program. The proposed rule adjusts the surcharge rates for part-time physicians and those participating in fellowships to more accurately reflect the risk. The Department expects a positive fiscal impact to physicians.

Copies of these rules are available on the Department of Insurance's Web site at www.state.in.us/idoi.

Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Jim Atterholt
Commissioner
Department of Insurance