

Assessment of Public Comment

During the public comment period, the Board received three public comments.

All three of the comments questioned or disagreed with the 85% reimbursement rate for occupational therapy assistants and physical therapy assistants. The NYS Workers' Compensation Board used a multifactorial methodology to arrive at the 85% reimbursement rate, which included, but was not necessarily limited to: benchmarking with other systems and payer types, such as nurse practitioners and physician assistants, as well as review of the various professional, educational, training and practice requirements for PTs, OTs, PTAs, and OTAs. Therefore, no change has been made in response to these comments.

One of the comments requested, if the 85% language is not removed, that additional clarification be added to match the nuances in the Medicare rule on this topic. The NYS WCB Fee Schedule and the Medicare Fee Schedule are separate and distinct. The Board believes that the more simplified "85%" language is better for both providers and payers, and therefore will be better for patients, as it will ultimately increase their access to quality care, so no change has been made in response to this comment.

Two of the comments also requested clarification about the use of "direct supervision" in the proposed regulation rather than "direction and supervision" like the bill uses. The New York State Workers' Compensation Board believes that the language "direct supervision", rather than the proposed change to "direction and supervision" more accurately summarizes the letter and intent of the more comprehensive State Education Department guidance, and the Board strongly believes that injured workers must be afforded the same quality of care as any other patients, so no change has been made in response to these comments.

Changes made:

- None