

**1300 Health Insurance General Provisions**

**1311 Standards of Payment for Multiple Surgical Procedures [Formerly Regulation 82]**

**1.0 Authority**

This regulation is adopted by the Commissioner pursuant to 18 **Del.C.** §§311, 2304(16) and 2312. It is promulgated in accordance with 29 **Del.C.** Ch. 101.

**2.0 Definitions**

2.1 For the purpose of this regulation, the following definitions shall apply:

**“Fee schedule”** means the monetary allowance payable to a healthcare provider for services rendered as provided for by agreement between the health care provider and the health insurer.

**“Health Care Provider”** means any entity or individual licensed, certified or otherwise permitted by law to provide health care in the ordinary course of business, practice or profession.

**“Health insurer”** means health insurance companies, health maintenance organizations, health service corporations and any other entity providing a plan of health insurance or benefits subject to state insurance regulations.

**“Policyholder or Certificate Holder”** means a person covered under such policy or a representative designated by such person and entitled to services provided in the policy.

**3.0 Scope**

This regulation shall apply to all health insurers as defined in section 2.0 above, and shall apply to all contracts for insurance and certificates of coverage issued by such entities.

**3 DE Reg 636 (11/1/99)**

**4.0 Purpose**

The purpose of this regulation is to ensure that health insurers provide proper payment to health care providers –when more than one surgical service is performed on the same patient, by the same physician, on the same day.

**5.0 Procedure for payment of multiple surgical services**

5.1 When more than one surgical service is performed on the same patient, by the same physician and on the same day, insurers shall make payment to the providers as follows:

5.1.1 One hundred per cent (100%) of the fee schedule for the procedure which has the highest regular fee schedule amount; and

5.1.2 For each additional procedure, performed through the same incision or separate incisions, as set forth in the National Correct Coding Manual established by Administar Federal under contract with the Health Care Financing Administration, not less than fifty per cent (50%) of the fee schedule amount.

**6.0 General Business Practice**

6.1 Within a 36 month period, three instances of a health insurer’s failure to pay a claim or bill for services as defined in section 5.0 above and in accordance with Insurance Department regulation governing the timeliness of claims handling, shall give rise to a rebuttable presumption that the insurer is in violation of 18 **Del.C.** §2304(16)(f).

6.2 The 36 month period established in section 6.1 above shall be measured based upon the date the complaints are received at the Department. Each claim or bill, or portion of a claim or bill, pertaining to a single medical treatment or procedure provided to an individual policyholder that is processed in violation of this regulation shall constitute an “instance” as described in section 6.1 above.

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**7.0 Penalties**

- 7.1 In addition to the imposition of penalties in accordance with 18 **Del.C.** §2312(b), any health insurer that fails to adhere to the standards contained in this regulation may be required by order of the Commissioner to pay to the health care provider or claimant, in full settlement of the claim or bill for health care services, the amount of the claim or bill plus interest at the maximum rate allowable to lenders under 6 **Del.C.** §2301(a). Such interest shall be computed from the date the claim or bill for services first became due.

**8.0 Causes of Action and Defenses**

This regulation shall not create a cause of action for any person or entity, other than the Delaware Insurance Commissioner, against a health insurer or its representative based upon a violation of 18 **Del.C.** §2304(16). In the same manner, nothing in this regulation shall establish a defense for any party to any cause of action based upon a violation of 18 **Del.C.** §2304(16).

**9.0 Effective Date**

This regulation shall become effective on January 1, 2000.