

Rescinded March 8, 2006

PRACTICE DIRECTIVE #43

RELIEF OF COSTS

Effective Date: September 28, 2002

Amended: July 1, 2003

BACKGROUND

Section 39(1)(e) requires the Board to "*provide and maintain a reserve for payment of that portion of the disability enhanced by reason of a pre-existing disease, condition, or disability.*"

As a result of a Panel Resolution dated June 11, 2002, the minimum period for which a worker must have been temporarily disabled before relief of costs can be considered has changed from 13 weeks to 10 weeks of disability.

This practice directive does not replace practice directives 16 or 29, but reflects this policy change with respect to the minimum period of time a worker must be temporarily disabled before relief of costs can be considered.

This Practice Directive is amended effective July 1, 2003 to delete the Adjudicative Guidelines. See Practice Directive #62 for new Guidelines.

POLICY

The *Rehabilitation Services & Claims Manual* ("RSCM") Volume II, Policy Item #114.40B, *Enhancement of Disability by Reason of Pre-existing Disease, Condition or Disability* states in part:

"...This section is applied most frequently in cases where a permanent disability award has been made. There are, however, claims where temporary total or temporary partial disability can be said to have been protracted by reason of a pre-existing disease, condition or disability. In such cases, no consideration will be given to the application of section 39(1)(e) until the worker has been temporarily disabled for a minimum period of 10 weeks following the injury..."

EFFECTIVE DATES

There are essentially three categories of claims created as a result of the policy change:

(1) Claims reaching 10 weeks of wage loss **on or after** September 28, 2002

Claims in Category (1) are subject to the **new** policy and relief of costs could be considered after 10 weeks of wage loss.

Example: A claim reaches 10 weeks of wage loss on September 30, 2002. The new policy applies and the claim would be considered for relief of costs.

- (2) Claims reaching 13 weeks of wage loss **before** September 28, 2002; and

Claims in Category (2) are subject to the old policy and relief of costs must be considered after 13 weeks of wage loss. Regardless of when the Board Officer chooses to adjudicate relief of costs, if a claim has reached 13 weeks of wage loss before September 28, the old policy still applies.

Example: A claim reached 13 weeks of wage loss on March 30, 2002. The Board Officer did not address relief of costs until October 1, 2002. If relief of costs were granted, the earliest it could be effective would be after 13 weeks.

- (3) Claims with **more than 10 weeks but less than 13** weeks of wage loss on September 28, 2002,

Claims in Category (3) are those with more than 10 weeks of wage loss and less than 13 weeks of wage loss on September 28, 2002. Relief of costs should be applied at 13 weeks.

Example: A claim reached 11 weeks of wage loss on September 28, 2002. If relief of costs were granted, it would be effective after 13 weeks of wage loss.