

Dec. 18, 2020

Honorable Governor Jared Polis
Members of the General Assembly
200 E. Colfax Ave.
Denver, CO 80203

Dear Governor Polis and Members of the General Assembly:

Pursuant to C.R.S. §8-45-122, attached please find Pinnacol Assurance's Report to Colorado Policymakers on 2019 Data. Per the statute, the report contains the following information*:

- (a) Number of policies held by Pinnacol
- (b) Total assets of Pinnacol
- (c) Amount of reserves
- (d) Amount of surplus
- (e) Number of claims filed
- (f) Number of claims admitted or contested within the 20-day period pursuant to section 8-43-203, specifying the number of contested claims that are medical only and those that are indemnity claims
- (g) Number of medical procedures denied
- (h) Amount of total compensation each executive officer or staff member receives, including bonuses or deferred compensation
- (i) Amount spent on commissions
- (j) Amount paid to trade associations for marketing fees
- (k) All information relating to bonus programs
- (l) Any other information the CEO deems relevant to the report

** All data is as of year-end 2019.*

The introduction to the report also highlights Pinnacol's focus and commitment to policyholders, injured workers and the Colorado community. We also detail the actions we took to support Colorado businesses, our policyholders and workers through the unprecedented COVID-19 pandemic.

Additional financial information may be found in the appendices to this document.

If you have any questions concerning the information in this report, please contact me at 303.361.4891.

Sincerely,



Philip B. Kalin
President and CEO

cc:

Sen. Leroy Garcia, Senate President
Sen. Chris Holbert, Senate Minority Leader
Rep. KC Becker, Speaker
Rep. Patrick Neville, House Minority Leader
Sen. Angela Williams, Chair, Senate Business, Labor and Technology Committee
Sen. Rhonda Fields, Chair, Senate Health and Human Services Committee
Rep. Tracy Kraft-Tharp, Chair, House Business Affairs and Labor Committee
Rep. Susan Lontine, Chair, House Health and Insurance Committee
Colorado Legislative Council Library

REPORT TO COLORADO POLICYMAKERS ON 2019 DATA BY PINNACOL ASSURANCE

Dec. 18, 2020



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INTRODUCTION

Pinnacol has provided workers' compensation insurance to Colorado employers, regardless of risk, since 1915. We ensure workers receive wage replacement and the medical care they need when they're injured on the job, and we protect their employers from potentially catastrophic losses. Today, we cover roughly 56,000 businesses and more than 924,000 employees across the state.

As we release this 2019 report in mid-2020, it's undeniably strange to look back at Pinnacol's most successful year ever while our economy is now in its worst trough since the Great Depression. Like every business, Pinnacol will experience a significant impact from the COVID-19 pandemic. Yet we are better prepared than many others to weather it.

While this report presents operational data from FY 2019, we think it's important to use this letter as an opportunity to talk about how we've responded to the needs of Colorado workers and businesses in the midst of the coronavirus pandemic. Through times of economic growth and hardship, Pinnacol Assurance has protected Colorado businesses and their hardworking employees. Here are details about Pinnacol's response so far:

- **Covering the needs of first responders and front-line healthcare workers** — Our state has not seen anything like the coronavirus pandemic in the past century and our workers' comp system required adjustments to support employees in important ways. Because a suspected COVID-19 exposure stemming from work requires employees to quarantine while awaiting their test results, **we committed to paying for all necessary COVID-19 testing for workers** and we instituted a first-in-the-nation **policy to provide short-term wage replacement benefits for first responders and front-line healthcare workers** for up to 14 days of quarantine while they awaited COVID-19 test results. We have not applied the cost of this benefit to our policyholders' premium calculation.
- **Worker safety outreach** — Many of Pinnacol's policyholders turned to us for guidance about establishing workplace safety protocols for COVID-19 and all the operational adjustments the pandemic required, such as more remote workers, more workers functioning as delivery drivers, proper wearing of masks, and employees working in outdoor conditions. Pinnacol delivered more than **three dozen new workplace safety resources** before summer's end that were free for all Colorado businesses to access on our website.

For the first time ever, Pinnacol also offered a **free, virtual safety consultation with one of our expert Safety Consultants to any business in the state**. Whether businesses needed help figuring out how to support healthy ergonomics in employees' homes, providing de-escalation training for employees whose customers refuse to wear a mask, or supporting employee mental health, we had Colorado's back when they needed us most.

- **Policy flexibility and forgiveness** — Beginning in March, Pinnacol recognized that the pandemic was bearing down on our state and **we quickly acted** to ensure that our customers could retain their workers' compensation insurance throughout this time.

Pinnacol felt our policyholders should not have to pay workers' compensation premium on furloughed workers who weren't actually working due to the coronavirus. We **added a new class code for those workers who weren't exposed to risk** through the end of 2020 to ensure they don't affect our customers' premium. This class code was later adopted nationwide by the National Council on Compensation Insurance (NCCI), a national trade organization for workers' compensation carriers.

To ensure policyholders were not being charged for employees and payroll that were not currently active due to workforce and payroll adjustments stemming from the pandemic, we implemented a customer outreach program to ensure we had the most up-to-date payroll information and they were only paying for what was necessary.

We enacted a **policy cancellation forgiveness program** to provide payment flexibility for our customers before it was required by the Colorado Division of Insurance's emergency rule. Pinnacol held all policy cancellations through the summer to give our customers time to manage the financial strain the pandemic presented. We did not cancel coverage for any policyholders unable to make their regularly scheduled payments.

- **Philanthropic support for Colorado workers and businesses** — Beginning in April, we donated more than \$2.25 million to an array of established funds that support businesses and workers in Colorado impacted by the coronavirus pandemic. These donations included **\$1 million to the Help Colorado Now Fund, \$600,000 to the Energize Colorado Gap Fund, \$250,000 to the Denver Small Business Relief Fund, \$125,000 to the Downtown Colorado Springs Business Relief Fund \$125,000 to the Greeley Recovery Fund, \$125,000 to the Colorado Restaurant Association Angel Fund and \$75,000 to the Grand Junction COVID-19 Responders Loan Fund.**
- **Protecting our own workforce by prioritizing health and communication** — Pinnacol's leadership acted quickly to preserve our operational capacity and keep our employees and customers safe from coronavirus exposure. We were among the first large employers in the Denver metro area to **close our customer-facing lobby and enable almost all our employees to work fully remotely.** We have supported them through the myriad difficulties of working and leading teams from home, managing children and schooling, and living through a pandemic. To create stability and certainty, we also made the call this fall that our workforce would remain almost fully remote through summer 2021.

We created a robust communication system across our organization to ensure employees felt connected to their teams and our executives. We've also created resources for employees including mental health tools, online tutoring resources for children, and additional digital collaboration systems, and we even offered up our tech support team for families having tech trouble with remote learning.

For employees who must perform physical jobs in our building, we have put in place rigorous protections and protocols to ensure their safety and peace of mind. All of this has resulted in very high employee engagement scores and a dedicated, capable and grateful workforce that is well equipped to fulfill our mission and support businesses and workers when they need us.

Throughout this difficult period we were pleased to see our injured worker and policyholder Net Promoter Scores (a standard measure of customer satisfaction) increase to historically high levels — 54 for injured workers and 61 for policyholders in Q3 2020 — and far exceed the industry benchmark of the low 30's for insurers.

NON-COVID-19-RELATED ACCOMPLISHMENTS IN 2020

- **Supporting our employees** — 2020 marked the fourth consecutive year Pinnacol has made The Denver Post's Top Workplaces list. In 2020 Pinnacol also received the "Best Work/Life Balance" award among all entrants. Pinnacol also made the Denver Business Journals' "Healthiest Employers" list for the second consecutive year.
- **Growing our future workforce** — Like every other business, Pinnacol faces challenges in recruiting and retaining high-caliber staff. So fostering the growth of our own team members is appealing. We're now entering our fourth year of partnership with CareerWise Colorado, a statewide apprenticeship program. We believe in this model so much that we currently have 21 apprentices — more than any other employer in Colorado — and have onboarded our fourth cohort of students. Our apprentices stay with us for three years. During their junior and senior years of high school they spend two to three days a week at our office getting paid for hands-on work experience; they may transition to working for us full time after they graduate. By the time they complete their apprenticeships, each will have earned up to 40 hours of debt-free college credit and a nationally recognized industry certification. We've already hired seven apprentices from our first cohort as full-time employees at Pinnacol. You can learn more about our award-winning apprenticeship program at apprenticeship.pinnacol.com.
- **Investing in Colorado** — As the leading provider of worker's compensation insurance in Colorado, we recognize our impact on the state and its economy. Our commitment extends beyond our customers and their employees. With customers in all 64 Colorado counties, we spread our efforts across the state to help nonprofits large and small.

In 2019, Pinnacol awarded grants totaling more than \$534,700 to more than three dozen Colorado nonprofits to help keep its policyholders' employees safe and healthy, provide rehabilitative care to those who are injured, and ensure Colorado has a robust business climate and the workforce it needs. Our grants funded organizations and

programs such as the Colorado Safety Association, the Spinal Cord Injury Recovery Project, and Associated General Contractors' apprenticeship program for the construction trades.

Through the employee-led Pinnacol in Action program, more than 67% of Pinnacol's 600+ employees volunteered with a nonprofit in 2019, spending more than 4,700 hours serving the community. Participation in the program is voluntary, and employees are free to lend a hand to organizations that are meaningful to them. They shared their time and talents with groups such as the Denver Health Foundation, the Food Bank of the Rockies and the National Sports Center for the Disabled.

Our employees also set records with their generosity in 2019. As part of an annual giving campaign that recently concluded, a record-setting 82.8% of Pinnacol employees donated to nonprofits, raising \$161,882. Pinnacol matched contributions, for a total gift of \$312,124.

One of the initiatives we are proudest of is the [Pinnacol Foundation](#), which in 2019 awarded more than \$452,000 in scholarships to 95 students whose parents were seriously injured or killed in a work-related accident in Colorado, whether or not Pinnacol was the insurer on the claim. The students applied their scholarships to traditional two- and four-year college programs as well as accredited vocational institutions. Since the foundation's creation in 2000, it has awarded almost \$6 million to nearly 650 students in every corner of the state.

- **Maintaining financial stability to benefit Colorado businesses** — [Pinnacol issued a general dividend in 2020](#), for the fifth consecutive year. In 2019, we distributed general dividend checks totaling \$70 million to our customers, and we distributed \$70 million in general dividend checks in 2020. We decreased rates by an average of 10% in 2020 and by an average of 10% in 2019.

Managing expenses, carefully stewarding our financial resources, applying disciplined underwriting practices, and focusing on managing risks to our investment portfolio, allow us to maintain our financial stability and guarantee the payment of benefits to injured workers and their dependents that may span years or even decades. This commitment has resulted in an A- (Excellent) rating from insurance rating agency A.M. Best and a BBB+ rating from Standard & Poor's. Also, Aon recognized Pinnacol in the 2019 "Ward Top 50" of best-performing property and casualty insurance carriers in the U.S., placing us in the top 2% of the nearly 3,000 property and casualty carriers evaluated by the company for the second time in a row.

Pinnacol received a clean audit of its 2019 financial statements, as conducted by independent auditors (KPMG) contracted by the Colorado Office of the State Auditor. The full audit report is attached in Appendix B.

REQUIRED REPORTING PER C.R.S. §8-45-122

All data as of Dec. 31, 2019

A. Policy Count: 55,471

Pinnacol's policies-in-force (active) as of Dec. 31, 2019 were slightly lower from 2018 (decrease of 708 policies) while premium decreased by \$30.0M with a 10 percent rate decrease.

B. Total (Admitted) Assets: \$3,106,246,888

Pinnacol's total assets grew by 8.13 percent over year-end 2018. The change was driven primarily by positive net income and operating cash flow as well as an increase in the value of invested assets. Pinnacol's investment portfolio emphasizes high quality, taxable bonds, supplemented by a smaller portfolio of equities, high-yield debt and alternative investments. It is overseen by an investment committee including outside professionals as well as members of Pinnacol's board.

C. Reserves: \$902,122,000

Our reserves represent the financial obligations of Pinnacol to pay injured workers' expected future benefits and related claims expenses, as determined by a contracted third-party actuarial firm (Milliman). Pinnacol's total reserves decreased by 2.0 percent over year-end 2018, primarily due to a small decline in claim volume.

D. Surplus: \$1,461,595,172

Our surplus is equity to cover unexpected claims/losses and economic fluctuations, as well as other risks. It is, essentially, our rainy day fund. It is important to recognize that, because Pinnacol is not allowed to participate in the state's insurance guaranty fund, our surplus serves as our own guaranty fund. Every year the board sets a surplus target range based on A.M. Best Capital Adequacy Ratio.

Colorado's strong 2019 economy and Pinnacol's attention to its operating performance helped drive positive net income, which is consistently the biggest driver of surplus growth for Pinnacol. Our surplus also reflects our share of PERA's unfunded liability, which has grown as PERA has changed its actuarial and investment assumptions.

E. Claims filed in 2019: 44,698

F. Claims required by statute to be admitted or denied within 20 days and notice provided to the Colorado Division of Workers' Compensation (DOWC): 4,789

Contested claims that are medical-only: 1,050

Contested claims that are indemnity claims: 78

The number of claims Pinnacol admitted or contested (denied) within 20 days increased by .06 percent in 2019 compared to 2018. The percent of claims we provide notice of to the DOWC has held steady at 11-14 percent of total claims filed for a number of years.

The total number of claims Pinnacol contested (denied) and reported to the DOWC decreased in 2019 from 2018 by 13 percent. The number of contested indemnity claims decreased by 7 claims and the number of contested medical-only claims decreased by 159 claims. Pinnacol's most common basis for contesting claims in 2019 was due to an injury not being work-related or the need for further investigation.

Here is a more complete picture of key data elements for 2019 with explanations to follow.

1. Claims processed with no filing required with DOWC	39,909	(89 percent)
2. Claims admitted within 20 days with DOWC	3,661	(5 percent)
3. Claims contested (denied) within 20 days with DOWC	1,128	(-13 percent)
Subtotal of items 2 and 3	<u>4,789</u>	
Total claims in fiscal year 2019	44,698	(100 percent)

Item 1: No Filing Required: Claims that are minor in nature; the injured worker has not sustained a permanent disability, disfigurement, or lost time from work in excess of three calendar days/shifts. These claims are processed by Pinnacol and do not require a filing of admission or contest with the DOWC. These claims represent 89 percent of all claims received by Pinnacol in 2019 .

Items 2 and 3: Admitted or Contested within 20 days: Claims that are more complex in nature require a formal filing with the DOWC of “contested” or “admitted.” It should be noted that not all contested claims are ultimately denied; as many may initially be contested based on the need for more information within the 20-day window, the time in which compensability must be determined.

Claims where the injured worker has sustained one of the following require a formal filing of “contested” or “admitted” with the DOWC:

- The injured employee contracted an occupational disease
- The injured employee was found to have a permanent disability due to the injury
- The injury or occupational disease resulted in lost time from work for the injured employee in excess of three shifts or calendar days

As noted above, the number of claims that fall into these two categories (10.7 percent) was slightly below the range of 11-14 percent of total claims filed for the last few years.

Item 3: Contested Claims: The 1,128 contested claims (2.5 percent of total claims in 2019) stemmed from one or more of the following reasons:

- Injury or illness was not work-related – 595 (53 percent)
- Pending further investigation or information – 281 (25 percent)
- Multiple reasons – 105 (9 percent) — Note: this category includes more than 1 reason, such as injury/illness not work-related, no insurance coverage, third-party involvement or independent contractor — no coverage.

Pinnacol’s percentage of claims contested was 2.5 percent in 2019.

G. Medical procedures denied: 3,068

Pinnacol’s percentage of medical procedures denied compared to total bills received was 0.54 percent for 2019. The most common reason for denying medical procedures that require prior approval from Pinnacol is the procedure was found not to be medically necessary.

Medical procedures denied are in accordance with Rule 16 of the Colorado Division of Workers’ Compensation’s Rules of Procedure. Some medical procedures require prior approval from the insurance company. Once a request for prior authorization is received, Pinnacol has seven business days to inform the medical provider and the injured worker that we will pay or deny payment for the procedure.

H. Amount of total compensation each executive officer or staff member receives, including bonuses or deferred compensation

Title	2019 Total Compensation
President and CEO	\$972,268
Chief Customer Officer	\$489,434
Vice President, General Counsel and Corporate Secretary	\$470,131
Vice President, Chief Investment Officer	\$384,929
Vice President, Human Resources	\$365,306
Chief Financial Officer	\$365,303
Vice President, Chief Information Officer	\$347,413
Vice President, Communications and Public Affairs	\$324,073
Vice President, Chief Marketing Officer	\$266,318
Vice President, Operations	\$253,912
Vice President, Agency Relations and Safety	\$239,159
Average total compensation for 9 Associate Vice Presidents	\$218,546

I. Amount spent on commissions: \$82,426,324

J. Amount paid to trade associations for marketing fees: \$164,410

K. Information related to bonus programs

See Appendix A

L. Other information the CEO deems relevant to the report

See Appendix B

Note: Sources for all items except H and the Appendices are the 2019 Pinnacol Annual Statement, the Pinnacol Assurance Key Factor Report, the General Ledger Account (60511-100 — Advertising Expenses — Association Marketing) and other internal reports.

APPENDIX A

Information related to bonus programs

PINNACOL ASSURANCE

INVESTMENT EXECUTIVE PERFORMANCE PLAN (As Amended and Restated January 1, 2019)

SUMMARY

The Investment Executive Performance Plan (“Investment Performance Plan”) is intended to recognize the achievement of major company objectives and individual objectives, measured on an annual basis.

This Investment Performance Plan appropriately emphasizes individual and group accountability for making specific contributions to Pinnacol Assurance’s overall investment business results. Based on Chief Executive Officer (“CEO”) and Investment Committee of the Board approval, the Investment Performance Plan will be finalized and communicated to the Vice President, Chief Investment Officer. A relatively short decision-result cycle should be attainable (first quarter of the following year) to determine award payout following Board approval.

PLAN DESCRIPTION

Plan Year – The Plan Year shall be a calendar year.

Performance Measures – Awards are paid under this Investment Performance Plan for meeting or exceeding annual performance objectives for pre-established company metrics for the Plan Year, as set forth by the CEO and the Investment Committee of the Board.

Eligibility – This Investment Performance Plan will only apply to the Vice President, Chief Investment Officer who will be the Eligible Employee. An Eligible Employee who is hired on or after October 1 of a Plan Year is not eligible to participate in the Investment Performance Plan for the year of hire.

Incentive Award Plans – The incentive award plan will be based on meeting major company investment objectives and individual objectives related to Pinnacol Assurance’s annual business plan. The amount of an award under this Investment Performance Plan, if any, is subject to the approval of the CEO and then ultimately the Board.

Determination of Payment

1. Eligible Employees

The CEO shall make a determination as soon as practicable after the end of the Plan Year as to whether the Eligible Employee has met his or her individual objectives and whether the company investment objectives have been met. The CEO shall make an initial determination as to the award that the Eligible Employee is eligible for under this

Investment Performance Plan for the Plan Year. The Board shall then approve the amount of all awards (the date of such approval being the "Initial Determination Date" with respect to the Eligible Employee). The "Determination" of an award by the Board, as well as the decision as to whether to make any such award, and the amount, if any, of such award, shall be in the sole discretion of the Board. Determination means the Board has passed a resolution approving or denying a bonus award as well as the amount of any such award.

2. Subsequent Adjustment Due to Error

The Board may increase or decrease the amount of an award subsequent to an Initial Determination Date (a "Subsequent Adjustment Due to Error"), provided, however, that a Subsequent Adjustment Due to Error shall only be made because of a mathematical error, an adjustment to results as described below under "Company Investment Objectives," or upon the determination of the Board that a metric or criterion used to compute an award had been determined in error. The date on which the Board approves a Subsequent Adjustment Due to Error shall be a Subsequent Determination Date with respect to such adjustment.

3. Determination Dates

The Initial Determination Date with respect to a Plan Year shall be on or after January 1 of the calendar year immediately following the Plan Year but no later than the May 31 of the calendar year immediately following such Plan Year. Any Subsequent Determination Date with respect to a Plan Year shall be no later than the September 30 of the calendar year immediately following such Plan Year.

Payment – Payment of an award, or of a Subsequent Adjustment Due to Error that increases an award, shall be made within 2-1/2 months of the Initial Determination Date (with respect to the award) or within 2-1/2 months of the Subsequent Determination Date (with respect to the Subsequent Adjustment Due to Error). In the event that a Subsequent Adjustment Due to Error reduces an award that has already been paid, Pinnacol Assurance may recoup such Subsequent Adjustment Due to Error from the recipient of an award by reducing the compensation otherwise payable to such recipient within sixty (60) days of the Subsequent Determination Date (including, but not limited to, regular compensation, bonuses, commissions, or severance pay and any amount of such Subsequent Adjustment Due to Error that Pinnacol Assurance has not recouped from such compensation shall be paid by the recipient to Pinnacol Assurance on the sixtieth (60th) day following the Subsequent Determination Date. This paragraph applies whether or not such recipient has remained an Eligible Employee.

Vesting – If the Eligible Employee who is not employed by Pinnacol Assurance on a Determination Date (whether an Initial or Subsequent Determination Date), he or she forfeits all rights to an award (or an increase in an award in the case of a Subsequent Adjustment Due to Error) for the Plan Year to which such Determination Date relates. If the Eligible Employee is employed by Pinnacol Assurance on an Initial or Subsequent Determination Date, he or she is fully vested in the award (or an increase in an award, in the case of a Subsequent Adjustment Due to Error) granted on such Initial or

Subsequent Determination Date.

Allocation of Award Under Each Plan – Incentive awards will be earned as follows once the Board has determined that the Eligible Employee has met the criteria for an award, which shall be based 95% on achievement of company investment objectives and 5% on Individual Strategic Goals Leadership Assessment.

Eligible Employee’s Performance Plan Award Range (% of Base Salary)

	Threshold	Commendable	Maximum
Vice President, Chief Investment Officer	22.5%	37.5%	52.5%

Award Payout Calculation

An individual worksheet will be prepared for the Eligible Employee. Pinnacol Assurance will use the following factors in determining the amount of the award once the threshold criteria are met:

1. Company Investment Objectives

Annual targets for Net Investment Gain, Total Return of Investment Portfolio, Implementation of Asset Allocation, Executive Performance Plan (each as defined or described below) will be established by the Board. The Individual Strategic Goals Leadership Assessment (as defined below) will be established by the CEO. Projected as well as past performance will be factored into the formula for establishing company investment objectives.

- A. “Net Investment Gain” is the income received from investment assets (before taxes) such as bonds, stocks, mutual funds, loans and other investments (less related expenses). Net Investment Gain will be determined using Pinnacol Assurance’s Annual Statement that is prepared for the Colorado Department of Insurance. Net Investment Gain is presented on Line 11 of the Statement of Income, and is the sum of Net Investment Income (Line 9) and Realized Capital Gains (Line 10).
- B. “Total Return of Investment Portfolio” is the capital appreciation on the investment portfolio and the income received on the investment portfolio. The income typically consists of interest, dividends and securities lending fees. Total return accounts for two categories of return: income and capital appreciation. Income includes interest paid by fixed-income investments, distributions or dividends. Capital appreciation represents the change in the market price of an asset. The total return on Pinnacol Assurance’s portfolio will be calculated by its independent investment consultant or by its custodian bank. The total return of Pinnacol Assurance’s portfolio will be compared to a customized market based benchmark that has been approved by its Board Investment Committee. A document is

SUBJECT TO COLORADO REVISED STATUTES SECTION 24-51-213, AND ANY OTHER APPLICABLE STATE LAW

attached that describes the methodology that the investment consultant will employ.

- C. "Implementation of Asset Allocation"--The Board Investment Committee has approved strategic asset allocation (allocation among bonds, stocks and alternatives). It is the Committee's objective to have the asset allocation fully implemented as soon as is reasonably appropriate. The Committee has established an annual work plan that describes the planned activities.
- D. "Executive Performance Plan" will be based on the results of all Executive Performance Plan metrics for the current Plan Year, with the exception of Individual Strategic Goals."
- E. "Individual Strategic Goals" will be based on "Monitoring of investment managers to ensure consistent implementation of Asset Allocation" and Identifying new investments--The Board Investment Committee has approved strategic asset allocation (allocation among bonds, stocks and alternatives). The Committee has established an annual work plan that describes the planned activities for the Vice President, Chief Investment Officer.
- F. "Leadership Assessment" will be based on the total score of the leadership competencies established by the CEO. The CEO will evaluate the Vice President, Chief Investment Officer's performance for this measure.

The weighting of the objectives shall be:

- Net Investment Income: 30%
- Total Portfolio Return Performance: 30%

Individual Strategic Goals

- Implementation of Asset Allocation: 15%, consisting of
 - Monitor all investment managers to ensure consistent implementation of asset allocation approved by Investment Committee (IC) : 10%
 - Identifying new investment opportunities that meet Pinnacol's investment objectives and are approved by the IC: 5%
- Executive Performance Plan: 20%
- Individual Strategic Goals Leadership Assessment:5%

2. Discretionary Adjustment

The CEO may review additional issues or concerns regarding any award with the Committee prior to final award approval by the full Board.

The final results pertaining to any objective may be adjusted at the discretion of the Board, based on the recommendation of the Committee, to account for unforeseen or uncontrollable events. Such adjustments will be made to assure that the results of this Investment Performance Plan are a fair reflection of the business performance of Pinnacol Assurance. Unforeseen or uncontrollable events may include, without limitation, adverse court rulings, imposed regulatory costs and/or revenue reductions, significantly better than expected performance results, and Board-approved budget adjustments.

3. Calculation of the Award Amount

- A. If the actual result is between two measurements (i.e., threshold and commendable or commendable and maximum) then the award will be linearly interpolated to match the actual result, but not to exceed the maximum award for that performance measure.
- B. If the Eligible Employee has been employed in the position of Vice President, Chief Investment Officer for less than the full twelve calendar months of the Plan Year and was hired prior to October 1 of the Plan Year, the award will be calculated based on the Eligible Employee's base salary on December 31 of the Plan Year or if the Eligible Employee moves from the position of Vice President, Chief Investment Officer to another position, on the Eligible Employee's base salary on the last day in the eligible position in the Plan Year, in either case prorated based on the number of months in the eligible position.
- C. The principles of B. above are illustrated by the following example.

Dakota is hired (or promoted) on July 1 into the Vice President, Chief Investment Officer position with a base salary of \$100,000 per year. He performs at a commendable level for the Plan Year.

$$\text{Dakota's award} = \$50,000 \times 37.5\% = \$18,750$$


Section 409A

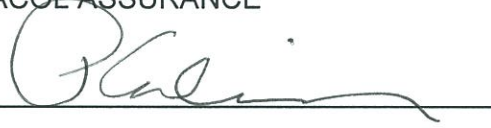
Each payments contemplated by this Plan is intended to qualify as a "short-term deferrals" as such term is defined in Treasury Regulation Section 1.409A-1(b)(4) and this Investment Performance Plan shall be administered and construed accordingly. To the extent that any such payment is not a short-term deferral, this Investment Performance Plan is intended to otherwise comply with Section 409A of the Internal Revenue Code of 1986, as amended, the Treasury Regulations promulgated thereunder, and any administrative guidance or judicial decisions with respect thereto ("Section 409A") and shall be administered and construed accordingly. It is the intention of Pinnacol Assurance that payments under this Investment Performance Plan not be subject to the additional tax or interest imposed pursuant to Section 409A. To the extent such potential payments or benefits are or could become subject to Section 409A, Pinnacol Assurance may amend this Investment Performance Plan with the goal of giving Eligible Employees the economic benefits described herein in a manner that does not result in such additional tax or interest being imposed. It is the intention of Pinnacol Assurance that no person shall be considered to

have a legally binding right to any award under this Investment Performance Plan at any time prior to an Initial Determination Date that relates to an award, or, in the case of a Subsequent Adjustment Due to Error that provides for an increase to an award, prior to such Subsequent Determination Date. Each payment described in this Investment Performance Plan shall be a separate payment and a separately identifiable payment to the maximum extent permitted by Section 409A.

Pinnacol Assurance reserves the right to add to, change, end, or suspend this Investment Performance Plan at any time, with or without notice. This document shall not be construed as a contract of employment, nor does it restrict the right of Pinnacol Assurance to discharge the employee or the right of the employee to terminate his or her employment at any time.

Pinnacol Assurance has evidenced its adoption of the Pinnacol Assurance Investment Executive Performance Plan (As Amended and Restated January 1, 2019) effective January 1, 2019, by the signature of its duly authorized officers.

PINNACOL ASSURANCE
By: 
Name: Barbara Brannen
Title: Vice President, Human Resources
Date: 2/27/19

PINNACOL ASSURANCE
By: 
Name: Philip B. Kalin
Title: President and Chief Executive Officer
Date: 2/27/19

APPENDIX B.1

Other information the CEO deems relevant to the report:

Annual financial statement audit report

APPENDIX B.2

Other information the CEO deems relevant to the report:

Rule 16 of the Colorado Division of Workers' Compensation Rules of Procedure

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

7 CCR 1101-3

WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 16 UTILIZATION STANDARDS

16-1 STATEMENT OF PURPOSE

In an effort to comply with its legislative charge to assure appropriate and timely medical care at a reasonable cost, the Director (Director) of the Division of Workers' Compensation (Division) has promulgated these utilization standards, effective January 1, 2017. This Rule defines the standard terminology, administrative procedures and dispute resolution procedures required to implement the Division's Medical Treatment Guidelines and Medical Fee Schedule. With respect to any matter arising under the Colorado Workers' Compensation Act and/or the Workers' Compensation Rules of Procedure and to the extent not otherwise precluded by the laws of this state, all providers and payers shall use and comply with the provisions of the "Medical Treatment Guidelines," Rule 17, and the "Medical Fee Schedule," Rule 18, as incorporated and defined in the Workers' Compensation Rules of Procedure, 7 CCR 1101-3.

16-2 STANDARD TERMINOLOGY FOR RULES 16 AND 18

- (A) Ambulatory Surgical Center (ASC) – licensed as an ambulatory surgery center by the Colorado Department of Public Health and Environment.
- (B) Authorized Treating Provider (ATP) – may be any of the following:
 - (1) The treating physician designated by the employer and selected by the injured worker;
 - (2) A health care provider to whom an authorized treating physician refers the injured worker for treatment, consultation, or impairment rating;
 - (3) A physician selected by the injured worker when the injured worker has the right to select a provider;
 - (4) A physician authorized by the employer when the employer has the right or obligation to make such an authorization;
 - (5) A health care provider determined by the Director or an administrative law judge to be an ATP;
 - (6) A provider who is designated by the agreement of the injured worker and the payer.
- (C) Billed Service(s) – any billed service, procedure, equipment or supply provided to an injured worker by a provider.
- (D) Billing Party – a service provider or an injured worker who has incurred authorized medical costs.
- (E) Certificate of Mailing – a signed and dated statement containing the names and mailing addresses of all persons receiving copies of attached or referenced document(s),

certifying the documents were placed in the U.S. Mail, postage pre-paid, to those persons.

- (F) Children's Hospital – identified and Medicare-certified by the Colorado Department of Public Health and Environment.
- (G) Convalescent Center – licensed by the Colorado Department of Public Health and Environment.
- (H) Critical Access Hospital (CAH) – Medicare-certified by the Colorado Department of Public Health and Environment.
- (I) Day – defined as a calendar day unless otherwise noted.
- (J) Free-Standing Facility – an entity that furnishes healthcare services and is not integrated with any other entity as a main provider, a department of a provider, remote location of a hospital, satellite facility, or provider –based entity.
- (K) Hospital – licensed by the Colorado Department of Public Health and Environment.
- (L) Long-Term Care Facility –licensed and Medicare-certified by the Colorado Department of Public Health and Environment.
- (M) Medical Fee Schedule – Division's Rule 18, its exhibits, and the documents incorporated by reference in that Rule.
- (N) Medical Treatment Guidelines – the medical treatment guidelines as incorporated into Rule 17, "Medical Treatment Guidelines."
- (O) Over-the-Counter Drugs – Drugs that are safe and effective for use by the general public without a prescription.
- (P) Payer – an insurer, employer, or their designated agent(s) who is responsible for payment of medical expenses.
- (Q) Prior Authorization – assurance that appropriate reimbursement for a specific treatment will be paid in accordance with Rule 18, its exhibits, and the documents incorporated by reference in that Rule.
- (R) Provider – a person or entity providing authorized health care service, whether involving treatment or not, to a worker in connection with work-related injury or occupational disease.
- (S) Psychiatric Hospital – licensed by the Colorado Department of Public Health and Environment.
- (T) Rehabilitation Hospital Facility – licensed as a rehabilitation hospital by the Colorado Department of Public Health and Environment.
- (U) Rural Health Clinic Facility – Medicare-certified by the Colorado Department of Public Health and Environment.
- (V) Skilled Nursing Facility (SNF) – licensed as a skilled nursing facility by the Colorado Department of Public Health and Environment.

- (W) “Supply et al.” – any single supply, durable medical equipment (DME), orthotic, prosthesis, biologic item, or single drug dose, for which the billed amount exceeds \$500.00 and all implants.
- (X) Telehealth – a mode of delivery of health care services through telecommunications systems, including information, electronic, and communication technologies, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, and/or self-management of an injured worker’s health care while the injured worker is located at an originating site and the provider is located at a distant site. The term includes synchronous interactions and store-and-forward transfers. The term does not include the delivery of health care services via telephone with audio only function, facsimile machine, or electronic mail systems. .
- (Y) Veterans’ Administration Medical Facilities – all medical facilities overseen by the United States Department of Veterans’ Affairs.

16-3 REQUIRED USE OF THE MEDICAL TREATMENT GUIDELINES AND PAYMENT FOR SERVICE

When an injury or occupational disease falls within the purview of Rule 17, Medical Treatment Guidelines and the date of injury occurs on or after July 1, 1991, providers and payers shall use the medical treatment guidelines, in effect at the time of service, to prepare or review their treatment plan(s) for the injured worker. A payer may not dictate the type or duration of medical treatment or rely on its’ own internal guidelines or other standards for medical determination. When treatment exceeds or is outside of the Medical Treatment Guidelines, prior authorization is required. Requesters and reviewers should consider how their decision will affect the overall treatment plan for the individual patient. In all instances of contest appropriate processes to deny are required. Refer to applicable sections of 16-10, 16-11 and/or 16-12.

16-4 REQUIRED USE OF THE MEDICAL FEE SCHEDULE

- (A) When services provided to an injured worker fall within the purview of the Medical Fee Schedule, all payers shall use the fee schedule to determine maximum allowable fees.
- (B) Providers must accurately report their services using codes and modifiers listed in the National Relative Value File, as published by Medicare in January 2016 Resource Based Relative Value Scale (RBRVS). Providers also must use codes, modifiers, instructions, and parenthetical notes listed in the American Medical Association’s Current Procedural Terminology (CPT®) 2016 edition. Finally, providers must use codes, modifiers, and billing instructions listed in Rule 18, Medical Fee Schedule. The Medical Fee Schedule sets the maximum allowable payment but the fee schedule does not limit the billing charges.
- (C) The provider may be subject to penalties under the Workers’ Compensation Act for inaccurate billing when the provider knew or should have known that the services billed were inaccurate, as determined by the Director or an administrative law judge.

16-5 RECOGNIZED HEALTH CARE PROVIDERS

- (A) Physician and Non-Physician Providers

(1) For the purpose of this Rule, recognized health care providers are divided into the major categories of "physician" and "non-physician". Recognized providers are defined as follows:

(a) "Physician providers" are those individuals who are licensed by the State of Colorado through one of the following state boards:

- 1) Colorado Medical Board;
- 2) Colorado Board of Chiropractic Examiners;
- 3) Colorado Podiatry Board; or
- 4) Colorado Dental Board.

Only physicians licensed by the Colorado Medical Board may be included as individual physicians on the employer's or insurer's designated provider list required under § 8-43-404(5)(a)(I), C.R.S.

(b) "Non-physician providers" are those individuals who are registered, certified, or licensed by the Colorado Department of Regulatory Agencies (DORA), the Colorado Secretary of State, or a national entity recognized by the State of Colorado as follows:

- 1) Acupuncturist (LAc) – licensed by the Office of Acupuncture Licensure, Colorado Department of Regulatory Agencies;
- 2) Advanced Practice Nurse (APN) – licensed by the Colorado Board of Nursing; Advanced Practice Nurse Registry;
- 3) Anesthesiologist Assistant (AA) – licensed by the Colorado Medical Board, Colorado Department of Regulatory Agencies;
- 4) Athletic Trainers (ATC) –registered by the Office of Athletic Trainer Registration, Colorado Department of Regulatory Agencies;
- 5) Audiologist (AU.D. CCC-A) – licensed by the Office of Audiology and Hearing Aid Provider Licensure, Colorado Department of Regulatory Agencies;
- 6) Certified Registered Nurse Anesthetist (CRNA) – licensed by the Colorado Board of Nursing;
- 7) Clinical Social Worker (LCSW) – licensed by the Board of Social Work Examiners, Colorado Department of Regulatory Agencies;
- 8) Durable Medical Equipment, Prosthetic, Orthotics and Supplies (DMEPOS) Supplier – licensed by the Colorado Secretary of State;
- 9) Marriage and Family Therapist (LMFT) – licensed by the Board of Marriage and Family Therapist Examiners, Colorado Department of Regulatory Agencies;

- 10) Massage Therapist (MT) –licensed as a massage therapist by the Office of Massage Therapy Licensure, Colorado Department of Regulatory Agencies;
- 11) Nurse Practitioner (NP) – licensed as an APN and authorized by the Colorado Board of Nursing;
- 12) Occupational Therapist (OTR) – licensed by the Office of Occupational Therapy, Colorado Department of Regulatory Agencies,;
- 13) Optometrist (OD) – licensed by the Board of Optometry, Colorado Department of Regulatory Agencies;
- 14) Orthopedic Technologist (OTC) – certified by the National Board for Certification of Orthopedic Technologists;
- 15) Pharmacist – licensed by the Board of Pharmacy, Colorado Department of Regulatory Agencies;
- 16) Physical Therapist (PT) – licensed by the Physical Therapy Board, Colorado Department of Regulatory Agencies;
- 17) Physical Therapist Assistant (PTA) – licensed by the Physical Therapy Board, Colorado Department of Regulatory Agencies;
- 18) Physician Assistant (PA) – licensed by the Colorado Medical Board;
- 19) Practical Nurse (LPN) – licensed by the Colorado Board of Nursing;
- 20) Professional Counselor (LPC) – licensed by the Board of Professional Counselor Examiners, Colorado Department of Regulatory Agencies;
- 21) Psychologist (PsyD, PhD, EdD) – licensed by the Board of Psychologist Examiners, Colorado Department of Regulatory Agencies;
- 22) Registered Nurse (RN) – licensed by the Colorado Board of Nursing;
- 23) Respiratory Therapist (RTL) – certified by the National Board of Respiratory Care and licensed by the Office of Respiratory Therapy Licensure, Colorado Department of Regulatory Agencies;
- 24) Speech Language Pathologist (CCC-SLP) – certified by the Office of Speech-Language Pathology Certification, Colorado Department of Regulatory Agencies; and

- 25) Surgical Technologist (CST) – registered by the Office of Surgical Assistant and Surgical Technologist Registration, Colorado Department of Regulatory Agencies.
- (2) Upon request, health care providers must provide copies of license, registration, certification or evidence of health care training for billed services.
- (3) Any provider not listed in section 16-5(A)(1)(a) or (b) must comply with section 16-10, Prior Authorization when providing all services.
- (4) Referrals:
- (a) A payer or employer shall not redirect or alter the scope of an authorized treating provider's referral to another provider for treatment or evaluation of a compensable injury. Any party who has concerns regarding a referral or its scope shall advise the other parties and providers involved.
 - (b) All non-physician providers must have a referral from an authorized treating physician. An authorized treating physician making the referral to any listed or unlisted non-physician provider is required to clarify any questions concerning the scope of the referral, prescription, or the reasonableness or necessity of the care.
 - (c) Any listed or non-listed non-physician provider is required to clarify any questions concerning the scope of the referral, prescription, or the reasonableness or necessity of the care with the referring authorized treating physician.
- (5) Rule 18, Medical Fee Schedule applies to authorized services provided in relation to a specific workers' compensation claim.
- (6) Use of PAs and NPs in Colorado Workers' Compensation Claims:
- (a) All Colorado Workers' Compensation claims (medical only or lost time claims) shall have an "authorized treating physician" responsible for all services rendered to an injured worker by any PA or NP.
 - (b) The authorized treating physician provider must be immediately available in person or by telephone to furnish assistance and/or direction to the PA or NP while services are being provided to an injured worker.
 - (c) The service is within the scope of the PA's or NP's practice and complies with all applicable provisions of the Colorado Medical Practice Act or the Colorado Nurse Practice Act, and all applicable rules promulgated by the Colorado Medical Board or the Colorado Board of Nursing.
 - (d) For services performed by an NP or a PA, the authorized treating physician must counter sign patient records related to the injured worker's inability to work resulting from the claimed work injury or disease, and the injured worker's ability to return to regular or modified employment. The authorized treating physician also must counter sign Form WC 164. The signature of the physician provider shall serve as a certification that all requirements of this rule have been met.

- (e) The authorized treating physician must evaluate the injured worker within the first three visits to the physician's office.

(B) Out-of-State Provider

(1) Injured Worker Relocated

- (a) Upon receipt of the "Employer's First Report of Injury" or the "Worker's Claim for Compensation" form, the payer shall notify the injured worker that the procedures for change-of-provider, should s/he relocate out-of-state, can be obtained from the payer.

- (b) A change of provider must be made:

- 1) Through referral by the injured worker's authorized treating physician; or
- 2) In accordance with § 8-43-404 (5)(a), C.R.S.

(2) Injured Worker Referred

In the event an injured worker has not relocated out-of-state but is referred to an out-of-state provider for treatment or services not available within Colorado, the referring provider shall obtain prior authorization from the payer as set forth in section 16-10, Prior Authorization. The referring provider's written request for out-of-state treatment shall include the following information:

- (a) Medical justification prepared by the referring provider;
- (b) Written explanation as to why the requested treatment/services cannot be obtained within Colorado;
- (c) Name, complete mailing address and telephone number of the out-of-state provider;
- (d) Description of the treatment/services requested, including the estimated length of time and frequency of the treatment/service, and all associated medical expenses; and
- (e) Out-of-state provider's qualifications to provide the requested treatment or services.

(3) The Colorado fee schedule should govern reimbursement for out-of-state providers.

16-6 HANDLING, PROCESSING AND PAYMENT OF MEDICAL BILLS

- (A) Use of agents, including but not limited to Preferred Provider Organizations (PPO) networks, bill review companies, third party administrators (TPAs) and case management companies, shall not relieve the employer or insurer from their legal responsibilities for compliance with these Rules.
- (B) Payment for billed services identified in the Medical Fee Schedule shall not exceed those scheduled rates and fees, or the provider's actual billed charges, whichever is less.
- (C) Payment for billed services not identified or identified but without established value in the Medical Fee Schedule shall require prior authorization from the payer as set forth in section 16-10, Prior Authorization, except when the billed non-established valued service or procedure is an emergency or a payment mechanism under Rule 18 is identifiable, but not explicit. Examples of the prior authorization request exception(s) include ambulance bills or supply bills that are covered under Rule 18-6(H) with an identified payment mechanism.

Similar established code values from the Medical Fee Schedule, recommended by the requesting physician, shall govern the maximum fee value payment.

- (D) Any payer contesting a provider's treatment shall follow the procedures as outlined under section 16-11, Contest of a Request for Prior Authorization, or section 16-12, Payment of Medical Benefits.
- (E) International Classification of Diseases (ICD) codes shall not be used to establish the work relatedness of an injury or treatment.

16-7 REQUIRED BILLING FORMS AND ACCOMPANYING DOCUMENTATION

- (A) Providers may use electronic reproductions of any required form(s) referenced in this section; however, any such reproduction shall be an exact duplication of such form(s) in content and appearance. With the agreement of the payer, identifying information may be placed in the margin of the form.
- (B) Required Billing Forms

All health care providers shall use only the following billing forms or electronically produced formats when billing for services:

- (1) CMS (Centers for Medicare & Medicaid Services) -1500 shall be used by all providers billing for professional services, durable medical equipment (DME) and ambulance services, with the exception of those providers billing for dental services or procedures. Health care providers shall provide their name and credentials in the appropriate box of the CMS-1500.
 - (a) Non-hospital based ASCs may bill on the CMS-1500, however an SG modifier must be appended to the technical component of services to indicate a facility charge and to qualify for reimbursement as a facility claim.
- (2) UB-04 - shall be used by all hospitals, hospital-based ambulance/air services, Children's Hospitals, CAHs, Veterans' Administration Medical Facilities, home health and facilities meeting the definitions found in section 16-2, when billing for

hospital services or any facility fees billed by any other provider, such as hospital-based ASCs.

(a) Some outpatient hospital therapy services (Physical, Occupational, or Speech) may also be billed on UB-04. For these services, the UB-04 must have Form Locator Type 013x, 074x, 075x, or 085x, and one of the following revenue code(s):

- Revenue Code 042X Physical Therapy
- Revenue Code 043X Occupational Therapy
- Revenue Code 044X Speech/Language Therapy

(b) CAHs designated by Medicare or Exhibit # 3 to Rule 18 may use UB-04 to bill professional services if the professional has reassigned his or her billing rights to the CAH using Medicare's Method II. The CAH shall list bill type 851-854, as well as one of the following revenue code(s) and Health Care Common Procedure Coding System (HCPCS) codes in the HCPCS Rates field number 44:

- 0960 - Professional Fee General
- 0961 - Psychiatric
- 0962 - Ophthalmology
- 0963 - Anesthesiologist (MD)
- 0964 - Anesthetist (CRNA)
- 0971 - Professional Fee For Laboratory
- 0972 - Professional Fee For Radiology Diagnostic
- 0973 – Professional Fee - Radiology - Therapeutic
- 0974 - Professional Fee - Radiology - Nuclear
- 0975 - Professional Fee - Operating Room
- 0981 - Emergency Room Physicians
- 0982 - Outpatient Services
- 0983 - Clinic
- 0985 - EKG Professional
- 0986 - EEG Professional
- 0987 - Hospital Visit professional (MD/DO)
- 0988 - Consultation (Professional (MD/DO))

All professional services billed by a CAH are subject to the same coding and payment rules as professional services billed independently. The following modifiers shall be appended to HCPCS codes to identify the type of provider rendering the professional service:

- GF Services rendered in a CAH by a NP, clinical nurse specialist, certified registered nurse, or PA
- SB Services rendered in a CAH by a nurse midwife
- AH Services rendered in a CAH by a clinical psychologist
- AE Services rendered in a CAH by a nutrition professional/registered dietitian
- AQ Physician services in a physician-scarcity area

(c) No provider except those listed above shall bill for the professional fees using UB-04.

(3) American Dental Association's Dental Claim Form, Version 2012 shall be used by all providers billing for dental services or procedures.

(4) With the agreement of the payer, the ANSI ASC X12 (American National Standards Institute Accredited Standards Committee) or NCPDP (National Council For Prescription Drug Programs) electronic billing transaction containing the same information as in (1), (2) or (3) in this subsection may be used.

NCPDP Workers' Compensation/Property and Casualty (P&C) universal claim form, version 1.1, for prescription drug billed on paper shall be used by dispensing pharmacies and pharmacy benefit managers (PBM). Physicians may use the CMS-1500 billing form as described in section 16-7(B)(1).

Physicians shall list the "repackaged" and the "original" NDC numbers in field 24 of the CMS-1500. List the "repackaged" NDC number first and the "original" NDC number second, with the prefix 'ORIG' appended.

(C) International Classification of Diseases (ICD) Codes

All provider bills, including outpatient hospital bills, shall list the appropriate diagnosis codes using the current ICD-10-Clinical Modification (CM) code(s). If a seventh character is required by ICD-10-CM, it must be applied in accordance with ICD-10-CM Chapter Guidelines provided by the Centers for Medicare and Medicaid Services (CMS).

(D) Required Billing Codes

All billed services shall be itemized on the appropriate billing form as set forth in sections 16-7(A) and (B), and shall include applicable billing codes and modifiers from the Medical Fee Schedule. National provider identification (NPI) numbers are required for workers' compensation bills; providers who cannot obtain NPI numbers are exempt from this requirement. When billing on a CMS-1500, the NPI should be that of the rendering provider and should include the correct place of service codes at the line level.

(E) Inaccurate Billing Forms or Codes

Payment for any services not billed on the forms identified in this Rule, and/or not itemized as instructed in sections 16-7(B) and (C), may be contested until the provider complies. However, when payment is contested, the payer shall comply with the applicable provisions set forth in section 16-12, Payment of Medical Benefits.

(F) Accompanying Documentation

(1) Authorized treating physicians sign (or countersign) and submit to the payer, with their initial and final visit billings, a completed "Physician's Report of Workers' Compensation Injury" (Form WC 164) specifying:

(a) The report type as "initial" when the injured worker has their initial visit with the authorized treating physician managing the total workers' compensation claim of the patient. Generally, this will be the designated or selected authorized treating physician. When applicable, the emergency room or urgent care authorized treating physician for this

workers' compensation injury may also create a WC 164 initial report. Unless requested or prior authorized by the payer in a specific workers' compensation claim, no other authorized physician should complete and bill for the initial WC 164 form. This form shall include completion of items 1-7 and 10. Note that certain information in item 2 (such as Insurer Claim #) may be omitted if not known by the provider.

- (b) The report type as "closing" when the authorized treating physician (generally the designated or selected physician) managing the total workers' compensation claim of the patient determines the injured worker has reached maximum medical improvement (MMI) for all injuries or diseases covered under this workers' compensation claim, with or without a permanent impairment. The form requires the completion of items 1-5, 6.B, C, 7, 8 and 10. If the injured worker has sustained a permanent impairment, then item 9 must also be completed and the following additional information shall be attached to the bill at the time MMI is determined:
 - 1) All necessary permanent impairment rating reports when the authorized treating physician (generally the designated or selected physician) managing the total workers' compensation claim of the patient is Level II Accredited; or
 - 2) Referral to a Level II Accredited physician requested to perform the permanent impairment rating when a rating is necessary and the authorized treating physician (generally the designated or selected physician) managing the total workers' compensation claim of the patient is not determining the permanent impairment rating.
 - (c) At no charge, the physician shall supply the injured worker with one legible copy of all completed "Physician's Report of Workers' Compensation Injury" (WC 164) forms at the time the form is completed.
 - (d) The provider shall submit to the payer the completed WC 164 form as specified in section 16-7(F), no later than 14 days from the date of service.
- (2) Providers, other than hospitals, shall provide the payer with all supporting documentation at the time of submission of the bill unless other agreements have been made between the payer and provider. This shall include copies of the examination, surgical, and/or treatment records.
 - (3) Hospital documentation shall be available to the payer upon request. Payers shall specify what portion of a hospital record is being requested. (For example, only the emergency room (ER) chart notes, in-patient physician orders and chart notes, x-rays, pathology reports, etc.)
 - (4) In accordance with section 16-12, the payer may contest payment for billed services until the provider completes and submits the relevant required accompanying documentation as specified by section 16-7(F).
- (G) Providers shall submit their bills for services rendered within 120 days of the date of service or the bill may be denied unless extenuating circumstances exist. Extenuating

circumstances may include, but are not limited to, delays in compensability being decided or the provider has not been informed where to send the bill.

- (H) All services provided to patients are expected to be documented in the medical record at the time they are rendered. Occasionally, certain entries related to services provided are not properly documented. In this event, the documentation will need to be amended, corrected, or entered after rendering the service. Amendments, corrections and delayed entries must comply with Medicare's widely accepted recordkeeping principles as outlined in the July 2016 Medicare Program Integrity Manual Chapter 3, section 3.3.2.5. (This section does not apply to patients' requests to amend records as permitted by the Health Insurance Portability and Accountability Act (HIPAA)).

16-8 REQUIRED MEDICAL RECORD DOCUMENTATION

- (A) A treating provider shall maintain medical records for each injured worker when the provider intends to bill for the provided services.
- (B) All medical records shall contain legible documentation substantiating the services billed. The documentation shall itemize each contact with the injured worker and shall detail at least the following information per contact or, at a minimum for cases where contact occurs more than once a week, be summarized once per week:
 - (1) Patient's name;
 - (2) Date of contact, office visit or treatment;
 - (3) Name and professional designation of person providing the billed service;
 - (4) Assessment or diagnosis of current condition with appropriate objective findings;
 - (5) Treatment status or patient's functional response to current treatment;
 - (6) Treatment plan including specific therapy with time limits and measurable goals and detail of referrals;
 - (7) Pain diagrams, where applicable;
 - (8) If being completed by an authorized treating physician, all pertinent changes to work and/or activity restrictions which reflect lifting, standing, stooping, kneeling, hot or cold environment, repetitive motion or other appropriate physical considerations; and
 - (9) All prior authorization(s) for payment received from the payer (i.e., who approved the prior authorization for payment, services authorized, dollar amount, length of time, etc.).

16-9 NOTIFICATION

- (A) The Notification process is for treatment consistent with the Medical Treatment Guidelines that has an established value under the Medical Fee Schedule. Providers may, but are not required to, utilize the Notification process to ensure payment for medical treatment that falls within the purview of the Medical Treatment Guidelines. Therefore, lack of response from the payer within the time requirement set forth in section 16-9 (D) shall deem the proposed treatment/service authorized for payment.

- (B) Notification may be made by phone, during regular business hours.
 - (1) Providers can accept verbal confirmation; or
 - (2) Providers may request written confirmation of an approval, which the payer should provide upon request.
- (C) Notification may be submitted using the “Authorized Treating Provider’s Notification to Treat” (Form WC 195).
 - (1) The completed form shall include:
 - (a) Provider’s certification that the proposed treatment/service is medically necessary and consistent with the Medical Treatment Guidelines.
 - (b) Documentation of the specific Medical Treatment Guideline(s) applicable to the proposed treatment/service.
 - (c) Provider’s email address or fax number to which the payer can respond.
- (D) Payers shall respond to a Notification submission within five (5) business days from receipt of the request with an approval or contest of the proposed treatment. Payers may contest the proposed treatment only for the following reasons:
 - (1) For claims which have been reported to the Division, no admission of liability or final order finding the injury compensable has been issued;
 - (2) Proposed treatment is not related to the admitted injury;
 - (3) Provider submitting Notification is not an Authorized Treating Provider (ATP), or is proposing for treatment to be performed by a provider who is not eligible to be an ATP;
 - (4) Injured worker is not entitled to proposed treatment pursuant to statute or settlement;
 - (5) Medical records contain conflicting opinions among the ATPs regarding proposed treatment;
 - (6) Proposed treatment falls outside the Medical Treatment Guidelines (see section 16-9(E)).
- (E) If the payer contests Notification under sections (16-9(D)(2), (5) or (6) above, the payer shall notify the provider, allow the submission of relevant supporting medical documentation as defined in section 16-10 (F), and review the submission as a prior authorization request, allowing an additional seven (7) business days for review.
- (F) Contests for denied Notification by a provider shall be made in accordance with the prior authorization dispute process outlined in 16-11(C).
- (G) Any provider or payer who incorrectly applies the Medical Treatment Guidelines in the Notification/prior authorization process may be subject to penalties under the Workers’ Compensation Act.

16-10 PRIOR AUTHORIZATION

- (A) Granting of prior authorization is a guarantee of payment when in accordance with Rule 18, RBRVS and CPT® for those services/procedures requested by the provider per section 16-10 (F).
- (B) Prior authorization for payment shall only be requested by the provider when:
 - (1) A prescribed service exceeds the recommended limitations set forth in the Medical Treatment Guidelines;
 - (2) The Medical Treatment Guidelines otherwise require prior authorization for that specific service;
 - (3) A prescribed service is identified within the Medical Fee Schedule as requiring prior authorization for payment; or
 - (4) A prescribed service is not identified in the Medical Fee Schedule as referenced in section 16-6(C).
- (C) Prior authorization for a prescribed service or procedure may be granted immediately and without medical review. However, the payer shall respond to all providers requesting prior authorization within seven (7) business days from receipt of the provider's completed request, as defined in section 16-10(F). The duty to respond to a provider's written request applies without regard for who transmitted the request.
- (D) The payer, upon receipt of the "Employer's First Report of Injury" or a "Worker's Claim for Compensation," shall give written notice to the injured worker stating that the requirements for obtaining prior authorization for payment are available from the payer.
- (E) The payer, unless they have previously notified said provider, shall give notice to the provider of these procedures for obtaining prior authorization for payment upon receipt of the initial bill from that provider.
- (F) To complete a prior authorization request, the provider shall concurrently explain the reasonableness and the medical necessity of the services requested, and shall provide relevant supporting medical documentation. Supporting medical documentation is defined as documents used in the provider's decision-making process to substantiate the need for the requested service or procedure.
 - (1) When the indications of the Medical Treatment Guidelines are met, no prior authorization is required. When prior authorization for payment is indicated, the following documentation is required:
 - (a) An adequate definition or description of the nature, extent, and necessity for the procedure;
 - (b) Identification of the appropriate Medical Treatment Guideline application to the requested service, if applicable; and
 - (c) Final diagnosis.
 - (2) When the service/procedure does not fall within the Medical Treatment Guidelines and/or past treatment failed functional goals; or if the requested

procedure is not identified in the Medical Fee Schedule or does not have an established value under the Medical Fee Schedule, such as any unlisted procedure/service with a BR value or an RNE value listed in the RBRVS, authorization requests may be made using the "Authorized Treating Provider's Request for Prior Authorization" (Form WC 188).

- (G) To contest a request for prior authorization, the payer is required to comply with the provisions outlined in section 16-11.
- (H) The Division recommends payers confirm in writing, to providers and all parties, when a request for prior authorization is approved.
- (I) If, after the service was provided, the payer agrees the service provided was reasonable and necessary, lack of prior authorization for payment does not warrant denial of payment. However, the provider is still required to provide, with the bill, the documentation required by section 16-10(F) for any unlisted valued service or procedure for payment.
- (J) All medical records should be signed by the rendering provider. Electronic signatures are accepted.

16-11 CONTEST OF A REQUEST FOR PRIOR AUTHORIZATION

- (A) If the payer contests a request for prior authorization for non-medical reasons as defined under section 16-12(B)(1), the payer shall notify the provider and parties, in writing, of the basis for the contest within seven (7) business days from receipt of the provider's completed request as defined in section 16-10(F). A certificate of mailing of the written contest must be sent to the provider and parties.

If an ATP requests prior authorization and indicates in writing, including their reasoning and relevant documentation, that they believe the requested treatment is related to the admitted workers' compensation claim, the insurer cannot deny based solely on relatedness without a medical review as required by section 16-11(B).

- (B) If the payer is contesting a request for prior authorization for medical reasons, the payer shall, within seven (7) business days of the completed request:
 - (1) Have all the submitted documentation under section 16-10(F) reviewed by a physician or other health care professional, as defined in section 16-5(A)(1)(a), who holds a license and is in the same or similar specialty as would typically manage the medical condition, procedures, or treatment under review. The physicians or chiropractors performing this review shall be Level I or Level II accredited.
 - (2) After reviewing all the submitted documentation and other documentation referenced in the prior authorization request and available to the payer, the reviewing provider may call the requesting provider to expedite communication and processing of prior authorization requests. However, the written contest or approval still needs to be completed within the specified seven (7) business days under section 16-11(B).
 - (3) Furnish the provider and the parties with a written contest that sets forth the following information:

- (a) An explanation of the specific medical reasons for the contest, including the name and professional credentials of the person performing the medical review and a copy of the medical reviewer's opinion;
 - (b) The specific cite from the Medical Treatment Guidelines exhibits to Rule 17, when applicable;
 - (c) Identification of the information deemed most likely to influence the reconsideration of the contest when applicable; and
 - (d) A certificate of mailing to the provider and parties.
- (C) Prior Authorization Disputes
- (1) The requesting party or provider shall have seven (7) business days from the date of the certificate of mailing on the written contest to provide a written response to the payer, including a certificate of mailing. The response is not considered a "special report" when prepared by the provider of the requested service.
 - (2) The payer shall have seven (7) business days from the date of the certificate of mailing of the response to issue a final decision, including a certificate of mailing to the provider and parties.
 - (3) In the event of continued disagreement, the parties should follow dispute resolution and adjudication procedures available through the Division or Office of Administrative Courts.
- (D) An urgent need for prior authorization of health care services, as recommended in writing by an authorized treating provider, shall be deemed good cause for an expedited hearing.
- (E) Failure of the payer to timely comply in full with the requirements of section 16-11(A) or (B), shall be deemed authorization for payment of the requested treatment unless:
- (1) A hearing is requested within the time prescribed for responding as set forth in section 16-11(A) or (B) and the requesting provider is notified accordingly. A request for hearing shall not relieve the payer from conducting a medical review of the requested treatment, as set forth in section 16-11(B); or
 - (2) The payer has scheduled an independent medical examination (IME) within the time prescribed for responding as set forth in section 16-11(B).
- (F) Unreasonable delay or denial of prior authorization, as determined by the Director or an administrative law judge, may subject the payer to penalties under the Workers' Compensation Act.

16-12 PAYMENT OF MEDICAL BENEFITS

- (A) Payer Requirements for Processing Medical Service Bills
- (1) For every medical service bill submitted by a provider, the payer shall reply with a written notice or explanation of benefits. In those instances where the payer reimburses the exact billed amount, identification of the patient's name, the

payer, the paid bill, the amount paid and the dates of service are required. If any adjustments are made then the payer's written notice shall include:

- (a) Name of the injured worker or patient;
 - (b) Specific identifying information coordinating the notice with any payment instrument associated with the bill;
 - (c) Date(s) of service(s), if date(s) was (were) submitted on the bill;
 - (d) Payer's claim number and/or Division's workers' compensation claim number, if one has been created;
 - (e) Reference to the bill and each item of the bill;
 - (f) Notice that the billing party may submit corrected bill or appeal within 60 days;
 - (g) For compensable services for a work-related injury or occupational disease the payer shall notify the billing provider that the injured worker shall not be balance-billed for services related to the work-related injury or occupational disease;
 - (h) Name of insurer with admitted, ordered or contested liability for the workers' compensation claim, when known;
 - (i) Name, address, e-mail (if any), phone number and fax of a person who has responsibility and authority to discuss and resolve disputes on the bill;
 - (j) Name and address of the employer, when known; and
 - (k) Name and address of the Third Party Administrator (TPA) and name and address of the bill reviewer if separate company when known; and
 - (l) If applicable, a statement that the payment is being held in abeyance because a relevant issue is being brought to hearing.
- (2) The payer shall send the billing party written notice that complies with sections 16-12(A)(1) and (B) or (C) if contesting payment for non-medical or medical reasons within 30 days of receipt of the bill. Any notice that fails to include the required information set forth in sections 16-12(A)(1) and (B) or (C) if contesting payment for non-medical or medical reasons is defective and does not satisfy the payer's 30-day notice requirements set forth in this section.
- (3) Unless the payer provides timely and proper reasons as set forth by the provisions outlined in sections 16-12(B) - (D), all bills submitted by a provider are due and payable in accordance with the Medical Fee Schedule within 30 days after receipt of the bill by the payer.
- (4) If the payer discounts a bill and the provider requests clarification in writing, the payer shall furnish to the requester the specifics of the discount within 30 days including a copy of any contract relied on for the discount. If no response is

forthcoming within 30 days, the payer must pay the maximum Medical Fee Schedule allowance or the billed charges, whichever is less.

- (5) Date of receipt of the bill may be established by the payer's date stamp or electronic acknowledgement date; otherwise, receipt is presumed to occur three (3) business days after the date the bill was mailed to the payer's correct address.
- (6) Unreasonable delay in processing payment or denial of payment of medical service bills, as determined by the Director or an administrative law judge, may subject the payer to penalties under the Workers' Compensation Act.
- (7) If the payer fails to make timely payment of uncontested billed services, the billing party may report the incident to the Division's Carrier Practices Unit who may use it during an audit.

(B) Process for Contesting Payment of Billed Services Based on Non-Medical Reasons

- (1) Non-medical reasons are administrative issues. Examples of non-medical reasons for contesting payment include the following: no claim has been filed with the payer; compensability has not been established; the billed services are not related to the admitted injury; the provider is not authorized to treat; the insurance coverage is at issue; typographic, gender or date errors are in the bill; failure to submit medical documentation; unrecognized CPT® code.
- (2) If an ATP bills for medical services and indicates in writing, including their reasoning and relevant documentation that they believe the medical services are related to the admitted WC claim, the payer cannot deny based solely on relatedness without a medical review as required by section 16-12(C).
- (3) In all cases where a billed service is contested for non-medical reasons, the payer shall send the billing party written notice of the contest within 30 days of receipt of the bill. The written notice shall include all of the notice requirements set forth in section 16-12(A)(1) and shall also include:
 - (a) Date(s) of service(s) being contested, if date(s) was(were) submitted on the bill;
 - (b) If applicable, acknowledgement of specific uncontested and paid items submitted on the same bill as contested services;
 - (c) Reference to the bill and each item of the bill being contested; and
 - (d) Clear and persuasive reasons for contesting the payment of any item specific to that bill including the citing of appropriate statutes, rules and/or documents supporting the payer's reasons for contesting payment.

Any notice that fails to include the required information set forth in this section is defective. Such defective notice shall not satisfy the payer's 30 day notice requirement set forth in this section.

- (4) Prior to modifying a billed code, the payer must contact the billing provider and determine if the modified code is accurate.

- (a) If the billing provider agrees with the payer, then the payer shall process the service with the agreed upon code and shall document on their explanation of benefits (EOB) the agreement with the provider. The EOB shall include the name of the person at the provider's office who made the agreement.
 - (b) If the provider is in disagreement, then the payer shall proceed according to section 16-12(B) or 16-12(C), as appropriate.
- (5) Lack of prior authorization for payment does not warrant denial of liability for payment.
- (6) When no established fee is given in the Medical Fee Schedule and the payer agrees the service or procedure is reasonable and necessary, the payer shall list on their written notice of contest (see section 16-12(A)(1)) one of the following payment options:
- (a) A reasonable value based upon the similar established code value recommended by the requesting provider;
 - (b) The provider's requested payment based on an established similar code value as required by section 16-10(F); or
 - (c) The billed charges.

If the payer disagrees with the provider's recommended code value, the payer's notice of contest shall include an explanation of why the requested fee is not reasonable and what their recommendation is, based on the payment options.

If the payer is contesting the medical necessity of any non-valued procedure after a prior authorization was requested, the payer shall follow section 16-12(C).

(C) Process for Contesting Payment of Billed Services Based on Medical Reasons

When contesting payment of billed services based on medical reasons, the payer shall:

- (1) Have the bill and all supporting medical documentation under section 16-7(F) reviewed by a physician or other health care professional as defined in section 16-5(A)(1)(a), who holds a license and is in the same or similar specialty as would typically manage the medical condition, procedures, or treatment under review. The physicians or chiropractors performing this review shall be Level I or Level II accredited. After reviewing the supporting medical documentation, the reviewing provider may call the billing provider to expedite communication and timely processing of the contested or paid medical bill.
- (2) In all cases where a billed service is contested for medical reasons, the payer shall send the provider and the parties written notice of the contest within 30 days of receipt of the bill. The written notice shall include all of the notice requirements set forth in section 16-12(A)(1) and shall also include:
 - (a) Date(s) of service(s) being contested, if date(s) was (were) submitted on the bill;

- (b) If applicable, acknowledgement of specific uncontested and paid items submitted on the same bill as contested services;
 - (c) Reference to the bill and each item of the bill being contested;
 - (d) An explanation of the clear and persuasive medical reasons for the decision, including the name and professional credentials of the person performing the medical review and a copy of the medical reviewer's opinion;
 - (e) The specific cite from the Medical Treatment Guidelines exhibits to Rule 17, when applicable; and
 - (f) Identification of the information deemed most likely to influence the reconsideration of the contest, when applicable.
- (3) Any notice that fails to include the required information set forth in this section is defective. Such defective notice shall not satisfy the payer's 30-day notice requirement set forth in this section.
- (4) If the payer is contesting the medical necessity of any non-valued procedure provided without prior authorization, the payer shall follow the procedures given in sections 16-12(C)(1) and (2).

(D) Process for Ongoing Contest of Billed Services

- (1) The billing party shall have 60 days to respond to the payer's written notice under section 16-12(A) – (C). The billing party's timely response must include:
- (a) A copy of the original or corrected bill;
 - (b) A copy of the written notice or EOB received;
 - (c) A statement of the specific item(s) contested;
 - (d) Clear and persuasive supporting documentation or clear and persuasive reasons for the appeal; and
 - (e) Any available additional information requested in the payer's written notice.
- (2) If the billing party responds timely and in compliance with section 16-12(D)(1), the payer shall:
- (a) When contesting for medical reasons, have the bill and all supporting medical documentation and reasoning under section 16-7(F) and, if applicable, section 16-12(D)(1) reviewed by a physician or other health care professional as defined in section 16-5(A)(1)(a), who holds a license and is in the same or similar specialty as would typically manage the medical condition, procedures, or treatment under review. After reviewing the provider's documentation and response, the reviewing provider may call the billing provider to expedite communication and timely processing of the contested or paid medical bill.

- (b) When contesting for non-medical reasons, have the bill and all supporting medical documentation and reasoning under section 16-7(F) and, if applicable, section 16-12(D)(1) reviewed by a person who has knowledge of the bill. After reviewing the provider's documentation and response, the reviewing person may call the billing provider to expedite communication and timely processing of the contested or paid medical bill.
 - (3) If before or after conducting a review pursuant to section 16-12(D)(2), the payer agrees with the billing party's response, the billed service is due and payable in accordance with the Medical Fee Schedule within 30 days after receipt of the billing party's response. Date of receipt may be established by the payer's date stamp or electronic acknowledgement date; otherwise, receipt is presumed to occur three (3) business days after the date the response was mailed to the payer's correct address.
 - (4) After conducting a review pursuant to section 16-12(D)(2), if there is still a dispute regarding the billed services, the payer shall send the billing party written notice of contest within 30 days of receipt of the response. The written notice shall include all of the notice requirements set forth in section 16-12(A)(1) and shall also include:
 - (a) Date(s) of service(s) being contested, if date(s) was(were) submitted by the provider;
 - (b) If applicable, acknowledgement of specific uncontested and paid items submitted on the same bill as contested services;
 - (c) Reference to the bill and each item of the bill being contested;
 - (d) An explanation of the clear and persuasive medical or non-medical reasons for the decision, including the name and professional credentials of the person performing the medical or non-medical review and a copy of the medical reviewer's opinion when the contest is over a medical reason; and
 - (e) The explanation shall include the citing of appropriate statutes, rules and/or documents supporting the payer's reasons for contesting payment.
 - (5) Any notice that fails to include the required information set forth in this section is defective. Such defective notice shall not satisfy the payer's 30-day notice requirement set forth in this section.
 - (6) In the event of continued disagreement, and within 12 months of the date the original bill should have been processed in compliance with section 16-12, the parties should follow dispute resolution and adjudication procedures available through the Division or Office of Administrative Courts.
- (E) Retroactive review of Medical Bills
- (1) All medical bills paid by a payer shall be considered final at 12 months after the date of the original explanation of benefits unless the provider is notified that:

- (a) A hearing is requested within the 12 month period, or
 - (b) A request for utilization review has been filed pursuant to § 8-43-501.
 - (2) If the payer conducts a retroactive review to recover overpayments from a provider based on medical reasons, the payer shall have the bill and all supporting documentation reviewed by a physician or other health care professional as defined in section 16-5(A)(1)(a), who holds a license and is in the same or similar specialty as would typically manage the medical condition, procedures, or treatment under review. The payer shall send the billing party written notice that shall include all of the notice requirements set forth in section 16-12(A)(1) and shall also include:
 - (a) Reference to each item of the bill where payer seeks to recover overpayments;
 - (b) Clear and persuasive medical reason(s) for seeking recovery of overpayment(s). The explanation shall include the citing of appropriate statutes, rules, and/or other documents supporting the payer's reason for seeking to recover overpayment; and
 - (c) Evidence that these payments were in fact made to the provider.
 - (3) If the payer conducts a retroactive review to recover overpayments from a provider based on non-medical reasons, the payer shall send the billing party written notice that shall include all of the notice requirements set forth in section 16-12(A)(1) and shall also include:
 - (a) Reference to each item of the bill where payer seeks to recover overpayments;
 - (b) Clear and persuasive reason(s) for seeking recovery of overpayment(s). The explanation shall include the citing of appropriate statutes, rules, and/or other documents supporting the payer's reason for seeking to recover overpayment; and
 - (c) Evidence that these payments were in fact made to the provider.
 - (4) In the event of continued disagreement, the parties may follow dispute resolution and adjudication procedures available through the Division or Office of Administrative Courts.
- (F) An injured worker shall never be required to directly pay for admitted or ordered medical benefits covered under the Workers' Compensation Act. In the event the injured worker has directly paid for medical services that are then admitted or ordered as covered under the Workers' Compensation Act, the payer shall reimburse the injured worker for the amounts actually paid for authorized services within 30 days after receipt of the bill. If the actual costs exceed the maximum fee allowed by the Medical Fee Schedule, the payer may seek a refund from the medical provider for the difference between the amount charged to the injured worker and the maximum fee. Each request for a refund shall indicate the service provided and the date of service(s) involved.

- (G) To the extent not otherwise precluded by the laws of this state, contracts between providers, payers and any agents acting on behalf of providers or payers shall comply with section 16-12.

16-13 DISPUTE RESOLUTION PROCESS

When seeking dispute resolution from the Division's Medical Policy Unit (MPU), the requesting party must complete the Division's "Medical Billing Dispute Resolution Intake Form" (Form WC 181) found on the Division's web page. The items listed on the bottom of the form must be provided at the time of submission. If necessary items are missing or if more information is required, the Division will forward a request for additional information and initiation of the process may be delayed.

When the request is properly made and the supporting documentation submitted, the Division will issue a confirmation of receipt. If after reviewing the materials the Division believes the dispute criteria have not been met, the Division will issue an explanation of those reasons. If the Division determines there is cause for facilitating the disputed items, the other party will be sent a request for a written response, allowing the other party ten (10) business days to respond.

The MPU will facilitate the dispute by reviewing the parties' compliance with Rules 16 and 18 within 30 days of receipt of the complete supporting documentation; or as soon thereafter as possible.

Upon review of all submitted documentation, disputes resulting from violation of Rules 16 and/or 18, as determined by the Director, may result in a Director's Order that cites the specific violation.

Evidence of compliance with the order shall be provided to the Director. If the party does not agree with the findings, it shall state with particularity and in writing its reasons for all disagreements by providing a response with all relevant legal authority, and/or other relevant proof upon which it relies in support of its position(s) concerning disagreements with the order.

Failure to respond or cure violations may result in penalties in accordance with § 8-43-304, C.R.S. Daily fines up to \$1000/day for each such offence will be assessed until the party complies with the Director's Order.

Resolution of disputes not pertaining to Rule violations will be facilitated by the MPU to the extent possible. In the event both parties cannot reach an agreement, the parties will be provided additional information on pursuing resolution and adjudication procedures available through the Office of Administrative Courts. Use of the dispute resolution process does not extend the 12 month application period for hearing.

16-14 ONSITE REVIEW OF HOSPITAL OR OTHER MEDICAL CHARGES

- (A) The payer may conduct a review of billed and non-billed hospital or medical facility charges related to a specific workers' compensation claim.

- (B) The payer shall comply with the following procedures:

Within 30 days of receipt of the bill, notify the hospital or other medical facility of its intent to conduct a review. Notification shall be in writing and shall set forth the following information:

- (1) Name of the injured worker;

- (2) Claim and/or hospital or other medical facility I.D. number associated with the injured worker's bill;
 - (3) An outline of the items to be reviewed; and
 - (4) If applicable, the name, address and telephone number of any person who has been designated by the payer to conduct the review (reviewer).
- (C) The hospital or other medical facility shall comply with the following procedures:
- (1) Allow the review to begin within 30 days of the payer's notification;
 - (2) Upon receipt of the patient's signed release of information form, allow the reviewer access to all items identified on the injured worker's signed release of information form;
 - (3) Designate an individual(s) to serve as the primary liaison(s) between the hospital or other medical facility and the reviewer who will acquaint the reviewer with the documentation and charging practices of the hospital or other medical facility;
 - (4) Provide a written response to each of the preliminary review findings within ten (10) business days of receipt of those findings; and
 - (5) Participate in the exit conference in an effort to resolve discrepancies.
- (D) The reviewer shall comply with the following procedures:
- (1) Obtain from the injured worker a signed information release form;
 - (2) Negotiate the starting date for the review;
 - (3) Assign staff members who are familiar with medical terminology, general hospital or other medical facility charging and medical records documentation procedures or have a level of knowledge equivalent at least to that of an LPN;
 - (4) Establish the schedule for the review which shall include, at a minimum, the dates for the delivery of preliminary findings to the hospital or other medical facility, a ten (10) business day response period for the hospital or other medical facility, and the delivery of an itemized listing of discrepancies at an exit conference upon the completion of the review; and
 - (5) Provide the payer and hospital or other medical facility with a written summary of the review within 20 business days of the exit conference.