

DEPARTMENT OF INSURANCE

April 6, 2017

Bulletin 238

Patient's Compensation Fund

This bulletin is directed to all health care providers electing to be qualified under Indiana's Medical Malpractice Act ([IC 34-18-1-1](#) et seq.) and to insurers that provide coverage to those health care providers.

Statutory Changes

In 2016, the Indiana Legislature enacted significant changes to Indiana's Medical Malpractice Act (the Act), including:

- Increasing health care provider per-occurrence and annual aggregate limits;
- Increasing total amounts recoverable by patients;
- Changing the time frame within which the Patient's Compensation Fund (PCF) pays judgments; and
- Adding anesthesiologist assistants to the defined list of health care providers.

The full changes and text of P.L.182-2016 (SEA 28) are available at:

<http://iga.in.gov/static-documents/9/7/7/d/977d41a7/SB0028.06.ENRS.pdf>

Policies that are written or renewed before July 1, 2017, to physicians or hospitals will pay the rates announced in IDOI Bulletin 225. Any payment of surcharge for physicians or hospitals on or after July 1, 2017, should comply with this bulletin. Nursing homes, independent ancillary providers, and other ancillary providers will pay the amounts published in [760 IAC 1-21](#) until the rule can be amended in light of the statutory changes. Canceling and rewriting to achieve a start date prior to July 1 to take advantage of lower surcharge is prohibited.

Health care providers are required to maintain the new limits on July 1, 2017, regardless of their policy renewal date. Therefore, insurance policies that are already in effect on July 1, 2017, should be endorsed to increase the limits of liability as of July 1. Self-insured hospitals should observe the new limits and take appropriate steps. Health care providers establishing financial responsibility by means of cash or a surety bond, as provided by [760 IAC 1-21-3\(a\)\(2\)](#), must observe the new limits as of July 1 but may increase the amount of cash or bond at their first surcharge payment date on or after July 1, 2017. A health care provider's limit will be established by the date of the occurrence, regardless of the policy term or coverage form. Any policy, self-insured hospital coverage, or other financial responsibility via [760 IAC 1-21-3](#), must satisfy the greater annual aggregate before PCF coverage will apply if any portion of the financial responsibility year includes a date on or after July 1, 2017.

It is the Department's intention to add anesthesiologist assistants to the class of independent ancillary providers and set an appropriate surcharge through administrative rulemaking. Until a rule is promulgated, anesthesiologist assistants will be considered ancillary providers and pay 100% of the underlying premium as surcharge to the PCF.

The Department recognizes the magnitude of these changes and will strive to be as flexible as possible during implementation. However, exceptions cannot be made to statutory deadlines or requirements.

Surcharge Rates for Hospitals and Physicians

Pursuant to [IC 34-18-5-2](#), the Commissioner of the Department of Insurance in his capacity as administrator of the PCF, hereby notifies physicians and hospitals of the following surcharge for qualification under the Act. The rates are effective for coverage beginning **July 1, 2017**.

PHYSICIANS

The surcharge for physicians will increase by 0.8% from the current effective rates. A complete list of physician specialty class codes is published at [760 IAC 1-60-3](#).

CLASS	ANNUAL RATE
0	\$2,240.00
1	\$2,986.00
2	\$4,180.00
3	\$5,375.00

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4	\$6,719.00
5	\$8,958.00
6	\$13,437.00
7	\$20,902.00
8	\$25,381.00

HOSPITALS

The surcharge for hospitals is shown below and represents an overall 14.8% increase from the current effective rates. The surcharge calculations must be completed with the online filing worksheet, which can be accessed at:

<http://www.in.gov/idoi/2607.htm>

Beds, Hospital (Acute Care and Intensive Care)	\$1,117.00
Mental Health/Rehabilitation	\$ 559.00
Extended Care/Intermediate Care/Residential	\$ 56.00
Nursing Home/Critical Extended Care	\$ 559.00
Health Institution/Assisted Living/Other	\$ 223.00
Bassinets	\$1,117.00
Emergency Room (per 100 visits)	\$ 111.70
Clinics/Others (per 100 visits)	\$ 55.85
Mental Health/Rehabilitation (per 100 visits)	\$ 27.93
Health Institution (per 100 visits)	\$ 22.34
Home Health Care (per 100 visits)	\$ 55.85
Births (per 100)	\$4,468.00
Outpatient Surgeries (per 100)	\$ 111.70
Inpatient Surgeries (per 100)	\$2,234.00

Physicians employed by hospitals continue to pay 100% of the appropriate surcharge for the physician's specialty class. Hospitals lacking a risk management program continue to receive a 10% penalty of the subtotal of surcharge due. Hospitals with more than 500 beds should continue to add a 3% multiplier to the subtotal of surcharge due.

INDIANA DEPARTMENT OF INSURANCE

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Insurance Commissioner

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