

State of Kansas

**Department of Labor**

**Notice of Public Hearing on Proposed Administrative Regulation**

February 1, 2024

A public hearing will be conducted on Tuesday, April 9, 2024 at 2:00 p.m. in the Appeal Board Hearing Room at the Department of Labor Building, 401 SW Topeka Blvd., Topeka, Kansas. The purpose of the public hearing will be to consider the adoption of a proposed rule and regulation of the Division of Workers Compensation, Department of Labor on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Division of Workers Compensation, 401 SW Topeka Blvd., Suite 2, Topeka, Kansas 66603 or by email to [Jose.Castillo@ks.gov](mailto:Jose.Castillo@ks.gov). All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Jose Castillo at (785) 581-7365 (or TYY 1-800-766-3777). The northwest entrance to the Department of Labor Building is accessible. Handicapped parking is located at the northwest side of the Department of Labor Building.

Copies of the proposed regulation and the Economic Impact Statement for the proposed regulation can be obtained by contacting Jose Castillo at (785) 581-7365 or [Jose.Castillo@ks.gov](mailto:Jose.Castillo@ks.gov).

A summary of the proposed regulation and its economic impact follows (Note: Statements indicating that a regulation is “not anticipated to have any economic impact” are intended to indicate that no economic impact on the Department of Labor, other state agencies, state employees, or the general public has been identified.)

**K.A.R. 51-9-7** – The purpose of this proposed regulatory change is to revise the fee schedule in K.A.R. 51-9-7 as authorized by K.S.A. 44-510i. The Director is to adjust the fees at least biennially to ensure the medical fees paid as a result of a workers compensation injury are current, reasonable and fair.

**Economic Impact:** Based on the analysis conducted by the National Council on Compensation Insurance (NCCI), the Kansas Division of Workers Compensation estimates the proposed

RECEIVED

FEB 1 2024

SCOTT SCHWAB  
SECRETARY OF STATE

changes to the medical fee schedule to have an impact of +0.3% (+1.5 million) on the overall workers compensation system in Kansas.

Jeff King, Director

**RECEIVED**  
FEB 1 2024  
SCOTT SCHWAB  
SECRETARY OF STATE

51-9-7. Fees for medical and hospital services. Fees for medical, surgical, hospital, dental, and nursing services, medical equipment, medical supplies, prescriptions, medical records, and medical testimony rendered pursuant to the Kansas workers compensation act shall be the lesser of the following:

(a) The usual and customary charge of the health care provider, hospital, or other entity providing the health care services; or

(b) the amount allowed by the "20192024 schedule of medical fees" published by the Kansas department of labor, effective on ~~March 29~~ May 3, 20192024, and approved by the director of workers compensation on ~~November 21, 2018~~ May 29, 2023, including the ground rules for each type of medical treatment or service within the schedule and the appendix, which is hereby adopted by reference.

This regulation shall be effective on and after ~~March 29~~ May 3, 20192024. (Authorized by and implementing K.S.A. ~~2018-Supp.44-510i~~; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended May 1, 1976; amended May 1, 1978; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended Nov. 1, 1993; amended April 5, 1996; amended Aug. 29, 1997; amended Oct. 1, 1999; amended Dec. 1, 2001; amended Dec. 1, 2003; amended Dec. 2, 2005; amended Jan. 1, 2008; amended Jan. 1, 2010; amended Jan. 1, 2011; amended Jan. 1, 2012; amended Jan. 1, 2014; amended Jan. 1, 2015; amended Jan. 1, 2017; amended March 29, 2019; amended P-\_\_\_\_\_.)

APPROVED  
FEB 06 2024

DEPT. OF ADMINISTRATION

APPROVED  
FEB 06 2024

ATTORNEY GENERAL

RECEIVED  
FEB 1 2024  
SCOTT SCHWAB  
SECRETARY OF STATE

# Kansas Administrative Regulations Economic Impact Statement (EIS)

KDOL/Division of Workers Compensation

785-581-7365

Agency

Jose Castillo  
Agency Contact

Contact Phone Number

KAR 51-9-7  
K.A.R. Number(s)

Permanent     Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- Yes    If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- No    If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
  - Yes    If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
  - No    If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

DOB APPROVAL STAMP (If Required)

RECEIVED

FEB 1 2024

SCOTT SCHWAB  
SECRETARY OF STATE

**Section I**

Brief description of the proposed rule(s) and regulation(s).

The Kansas Department of Labor/Division of Workers Compensation is required to update the medical fee schedule every two years. Therefore, the regulation is being updated to incorporate a new schedule of fees for medical services provided to injured workers covered by the Kansas Workers Compensation Act.

**Section II**

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

N/A

**Section III**

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

This regulation ensures there are some cost control over the medical services provided to injured workers and fees paid are sufficient to encourage medical providers to treat the injured workers.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

The proposed regulation that will be incorporating the new medical fee schedule is projected to have a 1.5 M dollar impact on the overall workers compensation system.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Employers, insurance carriers and healthcare providers

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed regulation will have a minimal cost on the overall workers compensation system, while ensuring there are sufficient medical providers willing to treat injured workers.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

KDOL reviews data provided by the National Council on Compensation Insurance (NCCI) on medical cost for medical services provided to injured workers. The data is broken down by region as well as nationwide.

DOB APPROVAL STAMP (if Required)

RECEIVED  
FEB 1 2024  
SCOTT SCHWAB  
SECRETARY OF STATE

F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.

Note: Do not account for any actual or estimated cost savings that may be realized.

Costs to Affected Businesses – \$Click here to enter amount.

Costs to Local Governmental Units – \$Click here to enter amount.

Costs to Members of the Public – \$Click here to enter amount.

**Total Annual Costs – \$1.5 M**  
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The estimated cost are provided to KDOL by NCCI. NCCI gathers medical cost data provided by other states nationwide.

- Yes
  - No
  - Not Applicable
- If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

If applicable, click here to enter public hearing information.

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

N/A

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

There is a potential that individual businesses or small employers may see a slight increase in workers compensation insurance premiums but no way to give an estimate as multiple factors are involved with insurance premiums.

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of

DOB APPROVAL STAMP (If Required)

RECEIVED  
FEB 1 2024  
SCOTT SCHWAB  
SECRETARY OF STATE

Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Letter sent to the above organizations advising of fee schedule changes.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

KDOL works with a Medical Advisory Panel in establishing a schedule of maximum fees for medical services. In addition, holds public hearing for anyone interested in the fee schedule.

**Section IV**

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
- No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

N/A

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

No increase in cost to implement and enforce the proposed regulation.

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

Without the implementation of the regulations that increase payment for some medical services, medical providers willing to treat injured workers will decrease; causing a shortage of medical providers available to treat injured workers in the State of Kansas

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

Reports and medical data provided by NCCI

DOB APPROVAL STAMP (If Required)

