

§ 9789.90 Home Health Care - Definitions.

- (a) “CMS” means the Centers for Medicare and Medicaid Services, a division of the United States Department of Health and Human Services.
- (b) “Home health care agency” means a business entity engaged in the business of providing home health care services. To provide home health care services to injured workers under the California workers’ compensation system, a home health care agency must be licensed by the California Department of Public Health and be Medicare-certified by CMS, or accredited as a home health care agency by the Community Health Accreditation Partner (CHAP) or the Joint Commission on Certification and Accreditation.
- (c) “Home health care services” includes the provision of medical and other health care services to the injured or ill person in their place of residence. Home health services include both medical and non-medical services deemed to be medically necessary for patients who are confined to the home (homebound) and who require one or both all of the following: (1) Skilled care by a licensed medical professional for tasks including, but not limited to, administration of intravenous drugs, dressing changes, occupational therapy, physical therapy, and speech-language pathology services; and/or (2) Personal care services for tasks and assistance with activities of daily living that do not require skills of a medical professional, such as bowel and bladder care, feeding, bathing, dressing and transfer and assistance with administration of oral medications; and/or (3) Domestic care services such as shopping, cleaning, and laundry that the individual is no longer capable of performing due to the illness or injury that may also be medically necessary in addition to skilled and/or personal care services. Domestic and personal care services do not require specialized training and do not need to be performed by a medical professional.
- (d) “IHSS” means In-Home Supportive Services, a program of the State of California, the provisions of which are set forth in California Welfare & Institutions Code sections 12300-12330 and incorporated herein by reference (http://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=3.&article=7). The maximum hours provision of this program, set forth in Welfare & Institutions Code section 12300, subdivision (h)(3), can be exceeded for an injured worker based upon a showing of medical need, if reasonably required to cure or relieve the injured employee from the effects of his or her injury and prescribed by a licensed physician and surgeon, in accordance with Labor Code section 4600, subdivision (h).
- (f) “Medicare” means a program of the United States government that provides payment for health care to elderly and disabled persons. The Centers for Medicare and Medicaid Services division of the United States Department of Health and Human Services provides this benefit program to eligible members of the public.

(g) “OWCP” means the United States Department of Labor’s Office of Workers’ Compensation Programs, a program of the United States government providing workers’ compensation benefits to employees of the United States government.

(h) “OWCP fee schedule” means the fee schedule maintained by the United States Department of Labor’s Office of Workers’ Compensation Programs for payment for health care services for injured workers employed by the United States government, which is incorporated by reference (http://www.dol.gov/owcp/regs/feeschedule/fee/fee14/fs14_code_rvu_cf.pdf).

Authority: Sections 133, 4603.5, 5307.1, 5307.3 and 5307.8, Labor Code. Reference: Sections 4600, 5307.1, 5307.8 and 5307.11, Labor Code.

§ 9789.91 Home Health Care – Eligibility for Services.

(a) Home health care services shall be provided as medical treatment only if reasonably required to cure or relieve the injured employee from the effects of his or her injury and prescribed by a licensed physician and surgeon, in accordance with Labor Code section 4600, subdivision (h). Home health care services are subject to the utilization review and independent medical review processes set forth in Labor Code sections 4610 and 4610.5, *et seq.*

(b) An in-home assessment of the injured worker’s need for home health care shall be performed by a qualified registered nurse, physical therapist or occupational therapist employed by a home health care agency. Assessments of an injured worker’s need for home health care will be performed using CMS’s OASIS (Outcome and ASsessment Information Set), a group of standard data elements used by CMS to assess patients’ needs for home health care services, which is incorporated by reference (<http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HomeHealthQualityInits/Downloads/HHQIOASISCAIITimePoint.pdf>).

Authority: Sections 133, 4603.5, 5307.1, 5307.3 and 5307.8, Labor Code. Reference: Sections 4600, 5307.1, 5307.8 and 5307.11, Labor Code.

§ 9789.92 Home Health Care – Payment Methodology.

(a) To calculate the maximum allowable amount (MAA) for home health care services, apply the following formula to the codes and values contained in section 9789.93, Table A, below:

$$[Wrvu + PErvu + MPrvu] \times CF = MAA$$

Where: Wrvu = Work relative value units

PErvu = Practice expense relative value units

MPrvu = Malpractice relative value units

Table A will be updated periodically in accordance with updates to the Medicare and OWCP home health fee schedules.

(b) Providers shall be entitled to a one hour minimum for each service. For services that exceed one hour, the provider shall be paid in fifteen (15) minute increments, pro rata. Providers will bill using the CMS 1500 form which can be downloaded at the following link

<http://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/CMS-Forms-Items/CMS1188854.html>).

(c) An employer or their insurer shall not be liable for household tasks the injured worker's spouse or other member of the injured worker's household performed prior to the industrial injury free of charge. In addition, an employer shall not be liable for home health care services that are provided more than 14 days prior to the date of the employer's receipt of the physician's prescription for home health care services, pursuant to Labor Code section 4600, subdivision (h).

(d) Any decisions to approve, modify, delay or deny a request for authorization of home health care services are subject to the utilization review and independent medical review processes set forth in Labor Code sections 4610 and 4610.5, *et seq.*

(e) Nothing in this section precludes an agreement for payment of home health care services, made between the provider and the insurer or claims administrator, regardless of whether such payment is less than, or exceeds, the fees set forth in this section.

Authority: Sections 133, 4603.5, 5307.1, 5307.3 and 5307.8, Labor Code.

Reference: Sections 4600, 5307.1, 5307.8 and 5307.11, Labor Code.