

# MAE News

## Newsletter from the Office of Monitoring, Audit and Enforcement Maine Workers' Compensation Board

Summer 2014

Volume 10, Number 2



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### *Compliance Training for Employers/Insurers*

The next open training session will be held October 23 and 24, 2014 at the Maine Department of Labor, at 45 Commerce Drive in Augusta.

This session will continue with two new added features: Brad Howard will be speaking on the Board's move toward a more automated claims handling model via Electronic Data Interchange (EDI) and Kimberlee Barriere will be doing an hour long presentation on the Board's medical fee schedule. Please contact Anne Poulin to reserve a spot.

The Board continues to be busy doing customized on-site training for insurers, self-insurers, 3<sup>rd</sup>-party administrators as well as employers. If you would like information about customized on-site training for your organization, please contact Gordon Davis at 207-287-6327, or by email at [Gordon.Davis@Maine.Gov](mailto:Gordon.Davis@Maine.Gov).

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### *From the Claims Management Unit*

Please note that the Cost of Living Adjustment (COLA) and State Average Weekly Wage (SAWW) notices effective July 1, 2014 originally had an incorrect rate. The correct versions are available at: [www.maine.gov/wcb/departments/Claims/index.htm](http://www.maine.gov/wcb/departments/Claims/index.htm).

**COLA** increases are applicable to claims with **pre 1-1-1993** dates of injury only. The correct COLA depends on the date of the injury. Refer to the Summer 2011 Newsletter for more detailed information.

Claims with **post 1-1-1993** dates of injury being paid at the **maximum weekly benefit level** (maximum rate) are subject to an inflation adjustment or escalation each year. Like COLAs, the correct maximum rate depends on the date of injury. Dates of injury on or **after 1/1/13** have a max rate of 100% of the SAWW (**\$742.35**) while injuries **prior to 1/1/13** have a max rate of 90% of SAWW (**\$668.12**). Refer to the Winter 2014 Newsletter for more detailed information.

If you have any questions regarding COLAs or max rates, please contact Debbie Morton at (207) 287-7053 or [Debbie.Morton@Maine.Gov](mailto:Debbie.Morton@Maine.Gov).

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### *From the Office of Medical/Rehabilitation Services Certificate of Authorization*

Title 39-A M.R.S.A. Section 208.1 states, "Authorization from the employee for release of medical information by health care providers to the employer is not required if the information pertains to treatment of an injury or disease that is **claimed to be compensable under this Act** [emphasis added]."

Therefore, authorization is not required from the employee or the employee's representative for the release of medical information pertaining to a claimed injury or disease regardless of whether the claimed injury or disease is denied.

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### HIPAA Q&A

**Question 1:** I am a health care provider and my State law says I have to provide a workers' compensation insurer, upon request, with an injured workers' records that relate to treatment or hospitalization for which compensation is being sought. Am I permitted to disclose the information required by my State law?

**Answer 1:** Yes. The HIPAA Privacy Rule permits a covered entity to disclose protected health information as necessary to comply with State law. No minimum necessary determination is required. See 45 CFR 164.512(a) and 164.502(b).

**Question 2:** Does the HIPAA Privacy Rule permit a health care provider to disclose an injured or ill worker's protected health information without his or her authorization when requested for purposes of determining the individual's entitlement to payment under the workers' compensation system or adjudicating the individual's workers' compensation claim?

**Answer 2:** Yes. Covered entities are permitted to disclose protected health information for such purposes as authorized by, and to the extent necessary to comply with, workers' compensation law. See 45 CFR 164.512(l). In addition, the Privacy Rule generally permits covered entities to disclose protected health information in the course of any judicial or administrative proceeding in response to a court order, subpoena, or other lawful process. See 45 CFR 164.512(e).

**Question 3:** State law says I may provide information regarding an injured workers' previous condition, which is not directly related to the claim for compensation, to an employer or insurer if I obtain the workers' written release. Am I permitted to make this disclosure under the HIPAA Privacy Rule?

**Answer 3:** Yes. A covered entity may disclose protected health information where the individual's written authorization has been obtained, consistent with the Privacy Rule's requirements at 45 CFR 164.508. Thus, a covered entity would be permitted to make the above disclosure if the individual signed such an authorization.

**Question 4:** Does an individual have a right under the HIPAA Privacy Rule to restrict the protected health information his or her health care provider discloses for workers' compensation purposes?

**Answer 4:** No. Individuals do not have a right under the Privacy Rule at 45 CFR 164.522(a) to request that a covered entity restrict a disclosure of protected health information about them for workers' compensation purposes when that disclosure is required by law or authorized by, and necessary to comply with, a workers' compensation or similar law. See 45 CFR 164.522(a) and 164.512(a) and (l).

These questions and answers along with additional information regarding HIPAA and Workers' Compensation may be found at:

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/workerscomp.html>