

Minnesota Department of Revenue

Revenue Notice # 23-02: MinnesotaCare Taxes – Examinations for Utilization Reviews, Insurance Claims or Eligibility, Litigation, and Employment – Revocation and Replacement of Revenue Notice # 99-13

Introduction

This Revenue Notice addresses certain types of examinations that are not patient services under *Minnesota Statutes*, sections 295.50 through 295.59, and therefore not subject to Provider Tax, Hospital Tax, or Surgical Center Tax. It revokes and replaces Revenue Notice # 99-13.

Background

Gross revenues received from providing patient services are subject to Provider Tax, Hospital Tax, or Surgical Center Tax. In most cases, examinations are patient services, and gross revenues received from providing examinations are subject to Provider Tax, Hospital Tax, or Surgical Center Tax. However, *Minnesota Statutes*, section 295.50, subdivision 9b(b)(2), excludes examinations from being patient services when the examinations are conducted for purposes of utilization reviews, insurance claims or eligibility, litigation, and employment. The review of medical records for these same purposes is also excluded from being patient services.

Department Position

Definition of examination

An examination is an evaluation, procedure, or test that seeks information about one or both of the following:

- The existence, nature, or severity of an individual's physical or mental impairment
- An individual's physical or psychological health

Examples of examinations include, but are not limited to, physical and psychological evaluations, diagnostic services, consultations, school sports physicals, X-rays, lab work, and review of medical records. An examination does not need to include an in-person evaluation of a patient or an established doctor-patient relationship.

Examinations that are not patient services

Examinations are not patient services if they are for purposes of utilization reviews, insurance claims or eligibility, litigation, and employment, including reviews of medical records for those

purposes. Therefore, revenues from these examinations are not subject to Provider Tax, Hospital Tax, or Surgical Center Tax.

The types of non-taxable examinations are explained as follows:

Utilization Reviews

A utilization review is defined under *Minnesota Statutes*, section 62M.02, subdivision 20, as the evaluation of the necessity, appropriateness, and efficacy of the use of health care services, procedures, and facilities, by a person or entity other than the attending health care professional, for the purpose of determining the medical necessity of the service or admission. Utilization review also includes prior authorization and review conducted after the admission of the enrollee. It includes situations where the enrollee is unconscious or otherwise unable to provide advance notification. Utilization review does not include a referral or participation in a referral process by a participating provider unless the provider is acting as a utilization review organization. (Utilization review organization is defined under *Minnesota Statutes*, section 62M.02, subdivision 21.)

Examples of utilization review examinations include:

- Review of medical records for purposes of determining continuation of benefits when the review is conducted by a person other than an attending health care professional
- A confirmatory consultation conducted by a person other than an attending health care professional and required by a third-party payer to determine the necessity or appropriateness of a previously recommended medical treatment

Insurance Claims or Eligibility

Insurance claim or eligibility examinations are conducted for purposes of obtaining insurance coverage or determining if an insured patient is eligible for benefits. Insurance claim or eligibility examinations do not include initial examinations conducted to facilitate ongoing care, establish therapy plans, or obtain referrals to specialists.

Examples of insurance claim or eligibility examinations include:

- Review of medical records for purposes of determining coverage of insurance claims or insurance eligibility
- Life insurance or disability insurance eligibility examinations (such as Social Security disability determination evaluations)
- A second opinion examination when it is required by a health insurer
- An independent medical examination (IME) for an auto insurance or workers' compensation claim

Litigation

Litigation examinations are conducted for purposes of providing medically-related evidence for use in litigated matters. Litigated matters are civil and criminal litigation proceedings. For purposes of this revenue notice, arbitration and administrative hearing proceedings are within the scope of civil litigation proceedings.

Examples of litigation examinations include:

- Examinations conducted by a medical expert solely for the purpose of forming an expert opinion on the cause or extent of an injury that is at issue in a litigated matter
- Medical expert witness preparation for deposition or trial testimony
- A doctor reviewing medical records in anticipation of writing an expert report or affidavit that will be used in a litigated matter
- Medical examinations ordered by a court for purposes of helping the fact finder (such as a judge or jury) decide a litigated matter

Litigation examinations do not include treatment provided to a patient. Examples of treatment include:

- Therapeutic services provided before, during, or after a litigated matter to treat a patient's condition
- Surgical operations to treat an injury that is at issue in a litigated matter
- Court-ordered treatments (such as for alcohol or substance abuse)


Employment

Employment examinations are conducted for purposes of obtaining employment, keeping employment, or for employment promotions. Immunizations required for these purposes are not considered employment examinations.

Examples of employment examinations include:

- Review of medical records for purposes of employment
- Required school bus driver and truck driver physical examinations
- Pre-employment or continuing employment physical examinations
- Drug and psychological tests required for employment

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