FINAL PROPOSED RULE # _____.

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Workers' Compensation Medical Fee Schedule Rule 40

/s/Kendal Smith , on 9/23/2026
(signature) (date)

Printed Name and Title:
Kendal Smith, Commissioner of Labor

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Minutes
- ☐ Copy of Comments
- ☐ Responsiveness Summary

1. TITLE OF RULE FILING:
Workers' Compensation Medical Fee Schedule Rule 40

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
26P019

3. ADOPTING AGENCY:
Department of Labor

4. PRIMARY CONTACT PERSON:
(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Dirk Anderson

Agency: Department of Labor

Mailing Address: PO Box 488, Montpelier VT 05601-0488

Telephone: 1-802-828-4391 Fax: 1-802-828-2195

E-Mail: dirk.anderson@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:
https://labor.vermont.gov

5. SECONDARY CONTACT PERSON:
(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Berrian Eno-Van Fleet

Agency: Department of Labor

Mailing Address: PO Box 488, Montpelier VT 05601-0488

Telephone: 1-802-828-2286 Fax: 1-802-828-2195

E-Mail: berrian.eno-vanfleet@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:
(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:
(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

21 V.S.A. Section 640(d)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:
   The Vermont Workers' Compensation Act requires the Commissioner of Labor to "prepare a schedule of fees and rates" for "medical, surgical, hospital and nursing services and supplies, prescription drugs, and durable medical equipment." 21 V.S.A. 640(d).
9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.
10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.
11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.
12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.
14. CONCISE SUMMARY (**150 WORDS OR LESS**):
    Medical providers who care for injured workers covered by a workers' compensation policy are required to bill for their services using the Workers' Compensation Medical Fee Schedule. It is vital to the health of the workers'compensation system that such fees be sufficient to ensure the provision of services, without being so generous as to increase the cost of insurance coverage. The rule generally modestly raises reimbursement amounts, adds a far more robust table of Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes, and provides for annual indexing going forward using Centers for Medicare & Medicaid Services (CMS)"market basket" factors, capped at 3% annually.
15. EXPLANATION OF WHY THE RULE IS NECESSARY:
    The fee schedule has not been updated since 2006. It is important that the fee schedule reflect the current state of health insurance reimbursement, so that services are available to injured workers.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The rule is not arbitrary because the reimbursment rates in the appendix were arrived at after comparing the fee schedule rates to rates in other states, CMS rates, and rates in the private sector.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All Vermont employers required to carry workers' compensation or to self-insure (including the State of Vermont), all Vermont workers who sustain work-related injuries, Vermont health care professionals who care for injured workers, and all Vermont hospitals.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

A preliminary analysis by the National Council on Compensation Insurance concluded that the annual impact on workers' compensation system costs would modestly increase reimbursement rates to health care professionals by 3.1%. The overall system costs would decrease some 11%. The decrease is attributable to more robust CPT and HCPCS billing codes, because procedures with no corresponding fee schedule code are billed at the comparitively high rate of 83% of billed charges.

19. A HEARING WAS HELD.

20. HEARING INFORMATION
(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 8/3/2026

Time: 01:00 PM

Street Address: 5 Green Mt. Drive Montpelier, VT

Zip Code: 05649

URL for Virtual:
https://teams.microsoft.com/meet/215735828885071?p=lFaIi4PsXrmEGKrHuH Meeting ID: 215 735 828 885 071 Passcode: dD3X6PZ3

Date:

Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):
    8/14/2026

    KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Workers' Compensation
Medical Fee Schedule
Allowable Charges
CPT/HCPCs

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:
   Workers' Compensation Medical Fee Schedule Rule 40
2. ADOPTING AGENCY:
   Department of Labor
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

   - **AMENDMENT -** Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
   - **NEW RULE -** A rule that did not previously exist even under a different name.
   - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

   This filing is **AN AMENDMENT OF AN EXISTING RULE .**

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE)*:

   # 06-015, Workers' Compensation Medical Fee Schedule, May 15, 2006.

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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1. TITLE OF RULE FILING:

   Workers' Compensation Medical Fee Schedule Rule 40

2. ADOPTING AGENCY:

   Department of Labor

3. CATEGORY OF AFFECTED PARTIES:

   LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

   All Vermont employers required to carry workers' compensation or to self-insure (including the State of Vermont), all Vermont workers who sustain work-related injuries, Vermont health care professionals who care for injured workers, and all Vermont hospitals. The annual impact on workers' compensation system costs would modestly increase reimbursement rates to health

care professionals by 3.1%. The overall system costs would decrease some 11%.

4. IMPACT ON SCHOOLS:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

A reduction in overall system costs should result in workers' compensation premiums for most employers decreasing or remaining level.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

No alternatives were considered, as all employers are required to either purchase workers' compensation or self-insure. School districts mostly self-insure through the Vermont School Boards Insurance Trust.

6. IMPACT ON SMALL BUSINESSES:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

Anticipated decline in, or at least no increase in, workers' compensation premiums.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Small businesses can reduce their insurance premiums by maintaining a safe and healty workplace, and consulting with Project WorkSAFE.

8. COMPARISON:
COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:
The Workers' Compensation Medical Fee Schedule is required by statute. Failing to update it at this time will do nothing to decrease premium, and may lead some health care providers to stop treating workers injured on the job.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

An actuarial analysis of the impact of the proposed rule was conducted for the Department of Labor by the National Council on Compensation Insurance.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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1. TITLE OF RULE FILING:

   Workers' Compensation Medical Fee Schedule Rule 40

2. ADOPTING AGENCY:

   Department of Labor

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

   No impact anticipated.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

   No impact anticipated.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

   No impact anticipated.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

   No impact anticipated.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
   No impact anticipated.
8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
   No impact anticipated.
9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
   The analysis was conducted by the Director of Workers' Compensation, in consultation with other departmental staff.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

   Workers' Compensation Medical Fee Schedule Rule 40

2. ADOPTING AGENCY:

   Department of Labor

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   Prior to filing this proposed rule, the Department circulated a draft of the rule to representatives of the stakeholders listed in paragraph 4 below. A virtual public meeting was held on January 16,2026, with written comments accepted through February 13. Some two dozen written comments were received and reviewed prior to submission of the proposed rule.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

   Vermont Medical Association, the Vermont Association of Hospitals, the workers' compensation bar, the American Property Casualty Insurance Association, the National Council on Compensation Insurance, vocational rehabilitation service providers, the Green Mountain Care Board, the Department of Financial Regulation's Insurane Division, and assorted healthcare providers.

Scientific Information Statement

THIS FORM IS ONLY REQUIRED IF THE RULE RELIES ON SCIENTIFIC INFORMATION FOR ITS VALIDITY.

PLEASE REMOVE THIS FORM PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the Scientific Information Statement, an agency shall provide a summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

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1. TITLE OF RULE FILING:

   Workers' Compensation Medical Fee Schedule Rule 40

2. ADOPTING AGENCY:

   Department of Labor

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

   The Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes are maintained by the American Medical Association.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

   The responsibility to update or modify code descriptors, coding rules, and guidelines for the CPT code set lies with the AMA CPT Editorial Panel, authorized by the AMA Board of Trustees.

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:

   American Medical Association

   AMA Plaza

   330 N. Wabash Ave., Suite 39300

   Chicago, IL 60611-5885

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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1. TITLE OF RULE FILING:

   Workers' Compensation Medical Fee Schedule Rule 40

2. ADOPTING AGENCY:

   Department of Labor

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE)*:

   Appendix A - Medical Fee Schedule – Rule 40.000

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:
   Current Procedural Terminology® CPT © 2025 American Medical Association. All rights reserved

5. OBTAINING COPIES: *(EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST)*:

   Upon request from the Vermont Department of Labor, labor.wccomp@vermont.gov or (802)-828-2286

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S)ARE MODIFIED)*:

Run Spell Check