VERMONT

State of Vermont
Department of Labor
Workers Compensation Division
5 Green Mountain Drive
P.O. Box 488
Montpelier, VT 05601
labor.vermont.gov

[phone] 802-828-4344
[fax] 802-828-2195
[tdd] 800-650-4152

APPLYING RULE 11 DURING THE COVID-19 PANDEMIC

Rule 11.0000 DENYING BENEFITS	***COVID-19 Application***
11.1100 Generally. An employer or insurance carrier who seeks to deny an injured worker's claim for specific benefits causally related to a compensable injury shall file a Denial of Workers' Compensation Benefits (Form 2) with the Commissioner and the injured worker. The Denial shall clearly state the reason(s) for the denial, and shall be accompanied by copies of all relevant documentation, medical or otherwise, relied upon to support it.	If an insurer decides to pay without prejudice for 90 days and because of circumstances related to the COVID-19 pandemic is unable to accept or deny the claim it may request an extension of the 90 day time period prior to the end of the initial 90 days and provide an explanation as to why it is unable to accept or deny. A specialist may grant a requested extension for up to an additional 90 days
11.1110 An employer or insurance carrier who has denied a claim for specific benefits on the grounds that information relevant to its investigation was appropriately requested but not forthcoming shall have an affirmative obligation to reconsider its denial if the requested information is received within 45 days thereafter.	If the insurer received a medical release from claimant but records are not provided by the treatment provider because the COVID-19 pandemic has closed the provider's office the insurer shall review its denial every ten days or consider paying without prejudice. It shall submit documentation of its continuing effort to obtain records

11.1200 Interim order. Upon written request by the injured worker and if the available evidence does not reasonably support a denial, the Commissioner shall issue an interim order that the denied benefit(s) be paid pending a formal determination in accordance with Rule 17.0000. Unless otherwise specified therein, any such benefit payments shall be due and payable upon issuance of the interim order. If following a formal hearing the Commissioner concludes that some or all of the benefits paid pursuant to an interim order were not in fact owed, the employer or insurance carrier may request that the injured worker be ordered to make repayment, and may enforce such order in any court of law having jurisdiction. 21 V.S.A. §662(b).	Review all denials whether or not we received a written request, for compliance with this directive If a request for an indemnity benefit is denied on the grounds that the worker has a work capacity the insurer must demonstrate that actual, appropriate work is being offered and can be performed safely consistent with CDC, OSHA, and Vermont Department of Health Guidelines.
11.1300 Application of rule. This rule shall apply to claims for an initial or successive period of temporary disability, claims for new or resumed medical services or supplies and claims for permanent disability. An employer or insurance carrier who seeks to terminate its responsibility for ongoing benefits, whether indemnity or medical, must do so in accordance with Rule 12.0000.	
11.1400 Denying payment for opioid medications. A medical provider who prescribes opioid medications to an injured worker for chronic pain resulting from a compensable work-related injury must comply in all respects with the Rule Governing the Prescribing of Opioids for Chronic Pain, as currently promulgated at 4A Code of Vermont Rules 13 140 076 (2015) and as amended from time to time by the Vermont Department of Health. If credible evidence establishes that he or she has failed to do so, a rebuttable presumption shall arise that the medications, as prescribed, do not constitute reasonable medical treatment. If the employer or insurance carrier seeks to deny payment on those grounds, it shall file a Denial of Workers' Compensation Benefits (Form 2) with the Commissioner and the injured worker, and shall comply in all respects with the requirements of	

this Rule 11.0000. In addition, it shall notify the prescribing provider of the specific basis for its determination that he or she has failed to comply with the above-referenced Vermont Department of Health rule. Thereafter, the injured worker shall have the burden of proving that the treatment is reasonable notwithstanding the prescribing provider's failure to comply. In any event, the Commissioner shall not approve a proposed discontinuance under this Rule unless credible medical evidence establishes that the effective date thereof comports with a safe taper plan. 21 V.S.A. §640.	