

IDAHO INDUSTRIAL COMMISSION  
**NEGOTIATED RULEMAKING  
MEETING MINUTES**

of  
Tuesday, June 02, 2015  
700 So. Clearwater Ln., Boise, Idaho  
1<sup>st</sup> Floor Conference Room

**Attendees of the Healthcare Subcommittee:**

Brad Street – Advantage Insurance  
Mike Haxby – Intermountain Claims  
Teresa Cirelli - IMA  
Woody Richards & Angela Richards – Attorney  
Lobbyist  
Paulette Boyle – State Insurance Fund  
Senator Dan Schmidt (via conference phone)  
Larry Tisdale - IHA  
Dr. Paul Collins - Physicians

**Interested Parties:**

Brenda Johnson – State Insurance Fund  
Carrie Velez – Idaho Neuroscience Assoc.  
DeAnna Coy – St. Luke’s Hospital  
Jana Thompson - Corvel  
John Wilson – Idaho Physicians Network (IPN)  
Julie Lineberger (Rep’g Joseph Williams, M.D. –  
Urology)

**Interested Parties – cont’d:**

Kathryn Sawin – St. Luke’s Hospital  
Kathy Ball – St. Luke’s Hospital  
Robin Schultheis – Idaho Neuroscience  
Assoc.  
Robyn Crosby – Primary Health  
Dr. Stephen Martinez – Primary Health  
Ruth Jackson-Ford - Corvel

**Industrial Commission:**

Patti Vaughn, Med Fee Analyst & Healthcare  
Subcommittee Chairperson  
Chairman R.D. Maynard  
Commissioner Tom Limbaugh  
Commissioner Tom Baskin  
Director Mindy Montgomery  
Deputy Attorney General Blair Jaynes  
Law Clerk Stephanie Butler  
Public Information Specialist Dara Barney

**Welcome and Introductions**

Patti Vaughn, Commission Med Fee Analyst, called the meeting to order at 2:00 p.m. and led with introductions and explanation of the meeting process.

**The following handouts were provided to the group:**

(1) Agenda; (2) *Unofficial Copy* of IDAPA Rule 17.02.09; (3) Copies of Written comments Submitted - Dr. Travis Kemp and Dr. David Peterman; (4) NCCI Medical Data Report, September 2014; and (5) List of Affected Hospital Outpatient C-APC with J1s (Not a complete J1 listing)

**Explanation of Negotiated Rulemaking:**

Ms. Vaughn reviewed the negotiated rulemaking process.

**Fee Schedule Annual Adjustment per IC §72-803:**

Ms. Vaughn informed attendees that the annual adjustment of the medical fee schedule is undertaken by the Commission, pursuant to IC §72-803. The Commission received written comments from two physicians. The Commission has not proposed a freeze to the physician fee schedule. Ms. Vaughn provided the following data to summarize the issue:

- Primary care providers are being reimbursed at lower rates than surgeons.
- There was a 30% increase to the E/M codes due to RVU and CF increases from 2008-2013.
- Although the 2014 E/M RVUs decreased 4.67%, there has been the equivalent of a 3.3% increase each year for the period 2008 through 2015.
- The 2014-15 fee schedule allowable for CPT Code 99213 is \$142.80.
- WCRI Report shows Idaho ranked second among states for having the highest fee schedule allowed for CPT Code 99213.
- NCCI Report indicated that the average payment for CPT 99213 in 2013 was \$123. Data obtained from the State Insurance Fund supports the NCCI data report.
- Billed units for CPT Code 99213 under the 2014 E/M codes was about 47% of all non-facility E/Ms.
- 461 individual providers have billed CPT Code 99213, with 80% of individual providers billing below the allowable fee schedule amount. The weighted average charge of the top five providers was \$132.53.

Lengthy discussion held of why physicians are not taking advantage of the allowable fee rate under the med fee schedule. Some contributing factors discussed: (1) Lack of physician education of the WC med fee schedule; (2) Most family physicians don't treat WC on a regular basis; and (3) Individual providers use billing systems that only support one charge which is set at private health rates.

Dr. Martinez proposed a raise in the fee schedule because WC creates more paperwork and added administrative costs to physicians. There are more approvals required for WC cases from insurers, such as for MRIs and PT, than for Medicare or Medicaid patients. Dr. Martinez was asked to quantify how much above commercial rates is a fair reimbursement.

Ms. Crosby opined that the additional administrative costs for WC cases directly impacts providers. Physicians currently treat 2 – 4 commercial patients for every one WC patient.

Ms. Vaughn informed the group that the Commission has no access to commercial rates data.

Mr. Haxby questioned if the reimbursement for CPT code 99213 is fair. Does it pay more than at the commercial rate?

Mr. Street inquired if there is much of a difference for approvals for treatment on a WC case compared to a commercial carrier such as Blue Cross/Blue Shield.

Some states provide a flat rate administrative fee incorporated into the fee payment.

Ms. Jackson-Ford informed the members that Colorado has a separate fee of \$47 for a FROI; the adjuster knows how to proceed and care to the patient is not held up. Colorado has a "Z" code that physicians use to bill for WC patients. She suggested that the reimbursement remain "as is" but add a miscellaneous code similar to Colorado's "Z" code.

Dr. Martinez opined that physicians try to save insurance companies dollars when visiting with patients; and proposed an hourly billable rate similar to attorneys as a fair rate.

Mr. Richards informed the group that some attorneys bill on a retainer basis; not necessarily at a per/hour rate.

Mr. Street would like the five largest commercial health carriers to assist in setting the WC payment amount.

According to Kathy Ball of St. Luke's, Idaho is known as a low-cost, efficient state. Medicare uses a cost of living assessment in its annual review.

Discussion held on use of other CPT codes for administrative costs. It was suggested that CPT 99215 be considered by providers when billing for prolonged visits to compensate for the additional time spent. There was discussion of using 99213 modifiers for different billing levels. Ms. Cirelli will provide information on modifiers for 99213 under CMS rules.

Senator Schmidt opined that the coding process is a significant part of the problem and not unique to WC. Is there interest from the providers to research different payment methodologies as a long-term solution? The Commission has very little access to data and little bargaining power.

Ms. Crosby opined that may be a more long-term solution.

After lengthy discussion, no consensus was reached by the group to amend the rule language.

#### **Modifications to IDAPA 17.02.09.032 addressing new Comprehensive Ambulatory Payment Classification (C-APC) Packaged Services:**

Ms. Vaughn provided a handout of the “*unofficial copy*” of the proposed Temporary Rule 17.02.09. She reported that a 2% increase goes into effect on July 1<sup>st</sup>. She reported the Temporary Rule extends the 2014 APC weights. The new J1 status indicators used with other status indicators could increase payments (*see* handout listing of J1s used in WC). She summarized the changes that need to be addressed at subsection C.iii (status code T) and C.iv (status code Q).

Ms. Jackson-Ford expressed concern that for a particular procedure the current rule language would allow the reimbursement for ambulatory centers to be paid more than for in-patient hospitals. Colorado and Idaho are similar in their reimbursement methods

Ms. Ball reported that J1s had a big impact on hospitals. There are 219 codes impacted by the J1s super package.

Representatives of St. Luke's, IHA and Corvel volunteered to meet sometime in June and compile data for the Commission's analysis and comparison to other states' with similar reimbursement methods.

Ms. Vaughn reported that the Commission looked at Montana's language for guidance. The Commission will seek assistance from NCCI to run the numbers St. Luke's volunteered to provide the Commission.

#### **Reimbursement standards for rehabilitation services:**

Ms. Vaughn reported that frequent inquiries are received requesting clarification on the reimbursement standards for rehabilitation services. Is there a need to do any clarifying changes to the inpatient/outpatient reimbursement standards for rehab services this year?

Ms. Vaughn has not seen any recent disputes filed on the issue.

The Post Falls Rehabilitation Hospital is currently the only free-standing facility in Idaho.

Ms. Jackson-Ford opined that 75% of billed charge for outpatient services is not reasonable; and physical therapists should not be paid more than a physician. Corvel has access to data for customary and usual charges.

Mr. Street reported an incentive to shift away from hospital outpatient PT centers to free-standing PT facilities.

Ms. Ball reported that hospitals benefit in that they do not require credentialing of each physical therapist.

Ms. Coy and Ms. Jackson-Ford would like this issue postponed to next year in light of the other major issues before the group.

Mike Haxby proposed “clean up” of the reimbursement standards for inpatient rehabilitation services be addressed within this time frame so there is no separate tier group for rehabilitation hospitals. Dr. Collins and Mr. Richards agreed with this proposition.

**Schedule of Future Meeting Date(s) and Topics of Discussion:**

St. Luke’s, IHA, Corvel and IMA will provide billable rates information and modifier code data to Ms. Vaughn for analysis.

Any proposed rules language should be submitted to Ms. Vaughn or to the Commission Secretary prior to the next Group meeting.

Attendees agreed to meet June 17, 2015 @ 2:00p.m., Commission office, 700 So. Clearwater Ln., Boise.

There being no further discussion, Ms. Vaughn thanked attendees for sharing their views.

There being no further business, the meeting adjourned at 3:40 p.m.