IDAHO INDUSTRIAL COMMISSION
NEGOTIATED RULEMAKING – MED FEES
DOCKET # 17-0209-1701

MEETING MINUTES
Thursday, June 22, 2017
9:00 am
700 S. Clearwater Ln., Boise, Idaho
1st Floor Conference Room

The Industrial Commission conducted negotiated rulemaking Re DOCKET # 17-0209-1701, pursuant to IC §§ 67-5220(1) and (2) and as authorized by IC §§ 72-508 and 72-803 on Thursday, June 22, 2017.

Welcome & Introductions:

Benefits Administration Manager Patti Vaughn called the meeting to order at 9:04 am, and led with introductions of attendees.

Attendees: (*See* public sign-in roster)

The following individuals participated:

Public Attendees: Debbie Wensink, Sawtooth Surgery Center; Robyn Crosby, Primary Health; Teresa Cirelli, Idaho Medical Association; Woody Richards, Attorney-Lobbyist; Angela Richards, Attorney-Lobbyist; and Cynthia Wood, Nat'l Policy Consultant, NCCI and Raji Chadarevian, Manager and Associate Actuary, NCCI (*via* conference phone)

Industrial Commission: Chairman Tom Limbaugh; Commissioners Tom Baskin and R.D. Maynard; Director Mindy Montgomery; Benefits Administration Manager Patti Vaughn;

Purpose of Meeting:

The Commission is seeking public input in order to determine what, if any, appropriate adjustments should be made to its med fee schedule and for possible amendments to the rule language at IDAPA 17.02.09.

Background for Meeting:

Ms. Vaughn provided a background summary for participants' information. The Commission is required to conduct an annual review of the med fee schedule, under IC §72-803. The Commission has for sometime been seeking to obtain commercial carrier data for benchmarking the Commission's med fee schedule. The Commission has been working on

a proposed Request for Proposal ("RFP") for analysis of group health payment rates; unfortunately, appropriation for the RFP came in too late to complete the RFP process; so, instead, the Commission entered into a limited access contract with Milliman for an analysis of the average group health rates data.

Materials:

The following handouts were provided to participants: (1) Notice of Negotiated Rulemaking (Idaho Administrative Bulletin June 7, 2017 – Vol. 17-6), (2) current IDAPA Rule 17.02.09; (3) report prepared by Milliman dated May 15, 2017 Re: Idaho Commercial Reimbursement Benchmarking with Exhibits 1 through 4; (4) IIC-prepared Fee Schedule Comparison Tables 1 through 4; and (5) the NCCI Idaho Medical Data Report, September 2016.

Ms. Vaughn summarized the methodology Milliman used to calculate the commercial reimbursement rates. Milliman used the 2015 MarketScan commercial claims data for Idaho payers that were produced by Truven that was then adjusted to reflect FY16 Medicare allowable rates. The 2015 MarketScan was trended to 2016 Medicare rates. The analysis shows a range of payouts in the market scan data of how far above or below those average payments would be.

Ms. Vaughn further summarized the handout materials for participants' information. The Tables dated June 22, 2017 (4 pp.) were prepared by the Commission to illustrate Idaho's percent of the Milliman average. The rates illustrated from the Milliman report are Idaho carrier rates, which was data voluntarily shared with Milliman by payers. The Milliman report did not identify the payers or how many payers so that any proprietary information would remain protected.

Ms. Vaughn summarized the content of each of the Exhibits 1 through 4 that used 2016 Medicare allowable rates:

- Exhibit 1, Table 1 – Average Inpatient Commercial Charge, Percentage of Medicare and Percentiles by DRG. The percentiles include implantable hardware data that was provided by the State Insurance Fund to give a comparison. For example, DRG Code 460 is for a spinal fusion
- Exhibit 2, Tables 2 – 5 – Average Outpatient Commercial Charge, Percentage of Medicare and Percentiles by HCPCS Excludes Modified Codes. The percentiles include implantable hardware data that was provided by the State Insurance Fund to give a comparison. The Outpatient Surgery category, for example, is approximately double the commercial carrier rates.
- Exhibit 3, Tables 6 -8 – Average Professional Commercial Charge, Percentage of Medicare and Percentiles by HCPCS Excludes Modified Codes. The Milliman report excludes modifiers that would adjust; the amounts in the report are as if paid at 100%.

- Exhibit 4, Table 9 – Average Professional Commercial Charge, Percentage of Medicare and Percentiles by HCPCS and Place of Service Excludes Modified Codes.

Ms. Vaughn further summarized the Tables 1 through 9 of the Commission's analysis comparing the med fee schedule allowable amounts to Milliman's reported average (includes implants). The rates are just Idaho carrier rates from payers who voluntarily shared data of what commercial payers pay for the same codes.

Primary Health representative Robyn Crosby and IMA representative Teresa Cirelli each inquired which payers provided the data. Ms. Vaughn reported that Milliman did not disclose the payers or the number of payers who provided data.

Ms. Cirelli suggested the higher rate being paid by commercial carriers, on a percent of Medicare at Table 3 for outpatient radiology, is the tracking Medicare is doing on the radiation that patients receive throughout the year.

Debbie Wensink of Sawtooth Surgery Center opined the data is skewed that is illustrated in the Milliman report for Tables 6-8 on the physician services because adjustments are not used; there's a lot more happening that would not be reflected in the payments.

Mr. Richards would like to see more participation from members of the working group, such as the State Insurance Fund and the adjusting community on these figures. He inquired whether consideration would be given to combining the data and masking it, similar to Montana's legislation that provides for the proprietary disclosure of information to the State of Montana.

Ms. Crosby opined that if the Commission is relying on the information as being accurate and what payments should look like, disclosure of who contributed the data would be beneficial because it does impact whether we can rely on the data for contracted rates, since those are not always adjusted for all categories. She explained that providers are being asked to do more by commercial carriers for gaining a 'star' rating, which is an arrangement for compensation not part of the regular contract with the commercial carriers. Ms. Crosby further explained the 'star' rating is a separate incentive payment not tied to any codes, where payers receive more compensation for sicker patients, such as diabetic patients. In workers' compensation cases the attainable outcome is getting people back to work.

Mr. Richards asked Ms. Crosby, *"What is the additional value for the extra paperwork to be provided to the Commission?"* Commissioner Baskin interjected that in past meetings providers said workers' compensation is more of a hassle, especially when responding to our rehabilitation division, or having to meet with attorneys, or having to attend depositions – all these things are key to running the workers' compensation end of the

patient case and make handling a worker's compensation claim more work and more costly. *"Is that the case and how much more is that?"*

Ms. Crosby agreed with Commissioner Baskin's summation of the providers' opinion that the workers' compensation patient case requires more time, resources and is more costly for providers. "*We"* can tell what we think that amount could be under the carrier, such as Blue Cross or United Health; the amounts vary depending on the contract payments in place. In addition, current billing systems do not allow for electronic claims billing under a workers' compensation patient case. Ms. Wensink reported that providers are unable to attach additional reports, such as OP reports, for a worker's compensation case with the electronic billing. Ms. Vaughn inquired if there were discussions for implementing electronic billing on worker's compensation patient cases.

Mr. Richards inquired if Cynthia Woods of NCCI had any information that could be shared with the Commission on reimbursement rates across states, a national comparison, on workers' compensation reimbursement rates that would be satisfactory for determining the Commission's med fee schedule. Cynthia Woods deferred to her colleague Raji Chadarevian for comment.

Mr. Chadarevian indicated that Medicare is one measure for comparison to the medical fee schedule, as compared to other rate frequencies. Ms. Vaughn reported that the NCCI 2016 Medical data report for the state of Idaho, September 2016 was made available and compares Idaho paid to region and countrywide. The comparison percent on Medicare is also in the report. Mr. Chadarevian interjected that the report reflects purely workers' compensation data; it does not reflect commercial carrier data.

Ms. Vaughn informed participants that, unfortunately, the carriers who voluntarily shared data were reluctant to disclose their identity in order that the information remains proprietary. The Commission understands the logic that rates information should be benchmarked; however, payers have been reluctant to have it identified. She further reported the State Insurance Fund has in the past provided data for the Commission to utilize in its annual review of the med fee schedule.

Ms. Wensink inquired whether Milliman would provide a statement indicating who the contributors were that provided data for the report, for instance, Blue Cross or Aetna.

Ms. Vaughn will reach out to Milliman for information on which payers provided data for the report.

Mr. Jaynes informed participants Milliman could provide the number of contributors, but would not be able to release the names, pursuant to the contract between them and the Industrial Commission. Mr. Richards opined there would no benefit in knowing just the number of carriers; he would also want to see comparisons to other states.

Ms. Vaughn shared additional information from past meetings of stakeholders. Physicians tell us that worker's compensation patients require more time, more paperwork. The Commission would be interested in knowing how much above group health the payments reflect. The med fee rates should be benchmarked to the commercial rates. Ms. Vaughn will reach out to WCRI and request permission to share their report on rates of other states.

Teresa Cirelli (IMA) will distribute to physicians the Milliman report; and then share physicians' input with the Commission. She further commented that the IMA is interested in reducing the disparity for similar services between the primary health care providers and hospitals. The IMA has yet to determine what that percentage would be.

The group had consensus to reconvene another negotiated rulemaking session in hopes that additional stakeholders would be in attendance and give input; any written comments would be extended past the date of June 28th. Participants were advised to check the Commission's website for the additional meetings to be scheduled, along with any written comments, or other information for the negotiated rulemaking sessions.

There being no further discussion, the meeting adjourned at 9:54 am.

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