

**MINUTES OF IWCC MEDICAL FEE ADVISORY BOARD  
IWCC CHICAGO OFFICE, ORAL ARGUMENT ROOM  
HELD ON AUGUST 23, 2007**

Present at the meeting were:

Dennis Ruth, Chairman  
Ms. Elena Butkus, Medical Provider Representative  
Dr. Jesse Butler, Medical Provider Representative  
Mr. Eric Dean, Employee Representative  
Dr. Edward Sclamberg, Medical Provider Representative  
Mr. John Smolk, Employer Representative

Participating via conference call was:

Mr. Ronald Powell, Employee Representative

Other attending IWCC board members were:

Mark Flannery, Workers' Compensation Advisory Board

IWCC staff present at the meeting were:

Mr. Glen Boyle, Medical Fee Schedule Project Manager  
Kathryn Kelley, IWCC General Counsel  
Susan Piha, IWCC Research and Education Manager

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Chairman Ruth called the meeting to order at 9:05 a.m.

Chairman Ruth first informed the medical fee advisory board of new commissioner appointments, including Commissioner Molly Mason as the new labor representative to replace Susan Pigott who recently resigned, and Commissioner Kevin Lamborn who replaced Ilonka Ulrich as the new business representative. Also Commissioner Gore and Chairman Ruth were reappointed.

The Chairman also noted changes to the Commissioner panels in that Commissioners Rink and DeMunno, both public members, have switched panels so Commissioner Rink will serve on Panel A and Commissioner DeMunno will serve on Panel C.

The Chairman added that at the end of the last fiscal year, the panels heard approximately 1,600 cases on review which is an approximate 50% increase from the previous year. He believes the number of decisions will grow in the upcoming fiscal year as the panels

continue to get caught up with the existing backlog of cases, and decisions are issued in a timelier manner.

The Chairman also noted the Commission is currently implementing a new file tracking system, which involves barcode labeling over 100,000 case files to ensure better case file management, and overall improved services to injured employees and employers.

The minutes from the June meeting were discussed. Mr. Smolk noted that Mr. Boyle indicated at the past meeting he would forward a chart that was discussed by the board to all members, and asked that the chart be included with the minutes. Upon motion duly made, seconded and unanimously carried, the minutes of the Commission held on June 29, 2007, with inclusion of the chart, were approved.

The Chairman noted he expects a fairly comprehensive hospital outpatient fee schedule with related rules to be passed and implemented, as the board has discussed this fee schedule in great detail. He also explained that *Ambulatory Surgical Treatment Centers* (ASTCs) must be addressed separately from hospitals; though the two entities operate similarly the legislation addressed them separately. However, due to the inability to identify exact data, he would like to address ASTCs through a rule. He also referenced ongoing discussions to this effect and an upcoming meeting with a major ASTC group.

Next, Mr. Boyle gave a presentation to the board. First, he discussed the Inpatient Rehabilitation Facility (IRF) fee schedule. Mr. Boyle proposed a per diem based fee schedule for the IRFs. However, Mr. Boyle indicated fifteen general categories, normally recognized by the rehab facility industry, can be created for which per diems can be developed.

The fifteen categories include:

- Amputation
- Brain Injury
- Burns
- Congenital Deformities
- Hip Fracture
- Joint Replacements
- Major Multiple Trauma
- Neurological Disorders
- Osteoarthritis
- Rheumatoid Arthritis
- Spinal Cord Injury
- Stroke
- Systematic Vasculidities
- Other Orthopedic
- Other

Mr. Boyle noted the first thirteen categories represent 75 percent of the cases seen in IRFs.

The board discussed the relevance of all categories to workers' compensation including congenital deformities and system vasculitides. The Chairman commented that it is important that all areas be covered, even if only utilized by workers' compensation on rare occasions.

Mr. Boyle explained that by using historical charge data for each category, the basic methodology to establish a per diem would be to take each and every individual case in a category, and divide it by the number of days and total charges. The results would be placed from the lowest to the highest to establish the 80<sup>th</sup> percentile, of which 90% would be calculated.

Ms. Butkus expressed concern that the Rehab Institute of Chicago (RIC) and Schwab are located in the same geozip as they have differing costs. Mr. Smolk also requested that the high-cost provider should somehow be normalized to lessen the impact on the fee schedule.

Mr. Boyle noted that he had not yet run the numbers on RIC and Schwab to know how both would be affected. Chairman Ruth asked Mr. Boyle to run the numbers and inform the board of the results at the next meeting. Board members were also interested in learning more about the percent of workers' compensation treatment at these facilities.

The Chairman noted that JCAR specifically requested a rehab facilities be addressed due to concern about the fee schedule and its impact on access. He hoped proposed fee schedules and rules would be ready at the next meeting.

Next Mr. Boyle expanded on the lack of data in relevance to ASTC, but did note a very comprehensive comparison from the Government Accountability Office (GAO) between hospital outpatient surgery and freestanding ambulatory surgical surgery across the country, and he believes a credible and unbiased comparison of costs has been made. Specifically, the comparison indicates the costs in an ambulatory surgical center are 84% of the costs in the hospital outpatient surgery scenario. Based on this information, Mr. Boyle proposes the fee schedule for ASTCs should equal the proposed hospital outpatient fees multiplied by 84% to represent the maximum reimbursement.

The Chairman noted that Section 16 of the Work Comp Act references fees and provides the Commission with broad authority on setting fees for providers in the workers' compensation setting. He believes the Commission has discretionary authority. Additionally, Chairman Ruth noted the ASTC community is also aware that their costs are less and also the legislation recognized that fact by treating hospitals and ASCT's different.

Dr. Butler discussed the appropriateness of relying solely on this report, and the board discussed further the difference in costs between ambulatory centers and those in hospital settings.

Mr. Boyle also noted that ASTCs do not itemize billing the same way hospitals do and there would have to be some adjustment from the hospital outpatient fee schedule to account for the difference. Some items would be removed such as laboratory, pathology, and radiology, as 99.9% of the time they are billed by other providers in the industry. Those services would be paid under the professional services schedule.

Next Chairman Ruth discussed the subject of Medicare's use of the DRG classifications, and their creation of new DRGs. For now, he indicated he would like to stay the course.

Mr. Boyle noted once a new grouper is released, he believes we can review the historical charge data used for the original DRG fee schedules, and regroup them according to the new DRG configuration. The second option is for the hospital industry to designate work comp claims, and assign the new DRG to the existing DRG, allowing the industry to continue to apply the existing fee schedule.

Next the group discussed access issues in relation to Memorial Institution Rehabilitation, located in Jacksonville. The Chairman noted he had received further correspondence from the provider regarding payment issues, and also from employers served by the provider.

The group discussed the development of procedures in which providers can address the Commission regarding access or payment issues, in addition to the range of authority the Commission has to change rates for specific providers. The board also discussed what criteria should be evaluated in such instances, such as payment levels below Medicare rate, current payment levels significantly lower than pre-medical fee schedule levels, and various access issues, including geographic location and specialty.

The Chairman indicated that he would correspond with the Jacksonville provider and ask them for the additional criteria discussed at the meeting.

Lastly, the board discussed the prompt pay/balancing billing issue. Ms. Butkus indicated the National UBC Committee and IAIABC, through the AHA, is in the process of developing a national standard, and there was a general consensus to wait for the outcome, in an effort to be in compliance with national standards.

The next board meeting date of November 15 at the same location and time was noted.

There being no further business, the meeting adjourned at 11:35 a.m.