

Workers' Compensation Board

Meeting Minutes

September 17, 2015

Thursday, September 17, 2015

I. Call to order

Acting Workers' Compensation Director Alan Ezzell, Chair of the Alaska Workers' Compensation Board, called the Board to order at 9:08 am on Thursday, September 17, 2015, in Anchorage, Alaska.

II. Invocation and Pledge of Allegiance

III. Roll call

Acting Director Ezzell conducted roll call. The following Board members were present:

Brad Austin	Pamela Cline	Chuck Collins
Julie Duquette	Jacob Howdeshell	Linda Hutchings
David Kester	Sarah Lefebvre	Ron Nalikak
Donna Phillips	Amy Steele	Mark Talbert
Rick Traini	Pat Vollendorf	Robert Weel
Lake Williams		

Members Stacy Allen and Michael O'Connor were absent. Quorum was established.

Members of the Medical Services Review Committee and the Workers' Compensation Board did a brief introduction stating their names and affiliations.

IV. Agenda Approval

A motion to adopt the agenda with amendments to consider 8 AAC 45.083, Fees For Medical Treatment and Services, first under old business and to correct page two noting that Commissioner Drygas would not be attending the board meeting was made by member Hutchings, and seconded by member Weel. The agenda was adopted without objection. The agenda was limited to consideration for approval of regulations proposed by the Department of Labor and Workforce Development for a new medical fee schedule, electronic filing, electronic case records, and service and notice of determinations by first class mail.

V. Approval of Meeting Minutes

A motion to adopt the minutes from the July 23-24, 2015 regular Board Meeting was made by member Hutchings and seconded by member Weel. The minutes were adopted without objection.

VI. Director's Report

1. The public comment period from July's board meeting was withdrawn upon advice of the Department of Law, to ensure the division was following the intent of HB 316.
2. Acting Director Ezzell reviewed current division staffing noting that Anchorage Workers' Compensation Officer I William Wright resigned his position effective September 11, 2015, and Drew Campbell was hired as a Workers' Compensation Technician in Juneau.
3. The division is or will be recruiting for the following vacant positions: WC Officer I (Anchorage), and a Hearing Officer (Anchorage).
4. Recruitment for a new director continues.
5. The possibility of consolidation of positions at the department level was discussed, and could affect our collection officer in Juneau.

Break 10:25am-10:45am

VII. Public Comment Period 11:00 am - 12:00 pm

1. Tony Shumate, Fairbanks North Star Borough, supports HB316 and the Medical Services Review Committee's (MSRC) report.
2. Chuck Brady, Arctic Slope Regional Corporation (ASRC) recommended the board adopt the MSRC report without changes as outlined in Commissioner Drygas' letter dated September 11, 2015. Mr. Brady stated Alaska has the highest workers' compensation costs in the country, with \$.75 of every dollar spent going to health care providers.
3. Chad Saunders, Workers' Compensation Committee of Alaska (WCCA) added his support to the expertise of the MSRC and encouraged the board to implement HB316. Mr. Saunders expressed concerns about the adjustment of the new inpatient conversion factor and the process used.
4. Kevin Barry, Alaska Surgery Center, (ASC), expressed concern that just because the board has a December 1, 2015 deadline, there is no reason to rush the process. He also had concerns about the adjustment of the new inpatient conversion factor and the process used; hospitals were able to vote and provide data. Mr. Saunders is against moving forward with the MSRC report; he feels it provides too drastic a cut and needs to be reworked.
5. Jared Sherman, LifeMed Alaska, stated the cuts will result in the loss of an aircraft in Fairbanks to support the North Slope. He shared that 67% of all flights do not cover cost. The MSRC did not recommend a conversion factor for air ambulance fees, but instead recommended a set lift off fee. LifeMed Alaska does not support the recommendation as it stands. Mr. Sherman stated LifeMed needs four times the Medicare rate just to break even.
6. Dan McCue, Alaska USA Federal Credit Union, recommends accepting the MSRC report as written without the change to the inpatient conversion factor. He requests the board adopt a fee schedule, which is better than the alternative.
7. Christine Hill, Alaska Auction Company, supports adopting a fee schedule.

8. Nancy Boardman, Alaska USA Insurance Brokers, stated for most of her clients workers' compensation insurance is the most costly of all their insurances, second only to payroll cost. She feels cost control measures are needed to control medical costs. Adoption of the MSRC recommendations are key to help control costs, and she urges the board to approve the original conversion factors. She asserted it is better to have a fee schedule than the alternative.
9. Connie Beemer, Alaska State Hospital & Nursing Home Association (ASHNMA), supports the revised inpatient conversion factors and the MSRC report. She believes the new rate is a more reasonable reduction; however, she is concerned about the outpatient rate.
10. Charles McKee, an injured worker, provided comments that were not on topic with the published agenda.
11. Sandy Travis, an injured worker, stated prevention in the workplace is crucial to avoid work place injuries and limit medical costs for everyone. Ms. Travis opposes the proposed fee schedule.
12. Allen Hippler, self, supports the fee schedule because \$.75 cents of every WC dollar spent goes to medical costs.
13. Steven Rowe, Cornerstone General Contractors, supports HB316 and getting a fee schedule in place before December 1, 2015.
14. Clarice Rebische, spouse of an injured worker, expressed concerns about reemployment benefits specialist who speak English with foreign dialects (accents), which make it hard for her husband to understand what is being said.
15. Alan Ulrich, Bartlett Hospital, appreciates the MSRC's work and supports the inpatient conversion factor increase.
16. Jesse Riddle, Guardian Flight, objects to an air ambulance fee schedule. The payer mix in Alaska is 45% Indian Health Services (IHS); 30% Center for Medicare Services (CMS); 20% commercial; and 5% uninsured. Workers' compensation makes up approximately 3% of the commercial payer mix. Reimbursement from CMS and IHS is substantially lower than costs, resulting in the majority of costs being shifted to commercial payers. He stated if the private commercial segment starts to cut back on reimbursements, service in Alaska will be negatively impacted – not just from Guardian, but all carriers

Lunch Break 12:27 pm-2:00 p.m.

VIII. Old Business

1. Amended 8 AAC 45.083, which provides fees for medical treatment and services. Member Hutchings moved to approve the amendment to 8 AAC 45.083. Member Weel seconded the motion. The chair opened the floor for discussion to approve the following conversion factors:
 - a. Physician Fee Schedule
 - i. Evaluation & Management - 80
 - ii. Medicine - 80
 - iii. Surgery - 205

- iv. Radiology - 257
 - v. Laboratory - 142
 - vi. Pathology & Clinical Lab – CMS x 6.33
 - vii. Durable Medical Equipment – CMS x 1.84
 - viii. ASP – CMS x 3.375
 - ix. Utilize separate CMS physician fee schedule relative values for facilities and non-facilities
- b. Outpatient - 221.79
- i. Outpatient based on CMS Outpatient Prospective Payment System
 - ii. ASC Payments at 95% Outpatient allowance
 - iii. Implants at invoice plus 10%
- c. Adopt state rule for status codes C, E, & P Inpatient Acute Care (Based on 13% case outlier and 7% implant outlier)
- i. Inpatient based on Medicare Severity Diagnosis Related Groups (MS-DRG)
 - ii. (CF) adjustment for disproportionate share, case outlier, and implants
 - iii. On outlier cases, implants backed out of MS-DRG and paid at invoice plus 10%
 - iv. Providence Alaska Medical Center \$23,383.10.
 - v. Mat-Su Regional Medical Center \$20,976.66.
 - vi. Bartlett Regional Hospital \$20,002.93.
 - vii. Fairbanks Memorial Hospital \$21,860.73.
 - viii. Alaska Regional Hospital \$21,095.72.
 - ix. Yukon Kuskokwim Delta Regional Hospital \$38,753.21
 - x. Central Peninsula General Hospital \$19,688.56.
 - xi. Alaska Native Medical Center \$31,042.20.
 - xii. Mt. Edgecumbe Hospital \$26,854.53.
- d. Anesthesia \$121.82, based on the Relative Value Guide, produced by the American Society of Anesthesiologists.
- e. Prescription Drugs
- i. Manufacturer (MFG) average wholesale price (AWP) plus \$5 dispensing fee for brand or \$10 dispensing fee for generics
 - ii. For compound drugs, limited to medical necessity, MFG AWP for each drug included in the compound (listed separately by NDC) plus a \$10 compounding fee.

Member Traini called for the question. The motion to approve 8 AAC 45.083 passed on an 11 to 5 vote, with members, Austin, Collins, Duquette, Howdeshell, Lefebvre, Nalikak, Talbet, Traini, Vollendorf, Weel and Williams voting in favor, members Cline, Hutchings, Kester, Phillips, and Steele voting against.

2. Eric Anderson of Optum discussed Providence's data for supporting the new Inpatient conversion factor of 328.2. He stated the data was along the lines he would expect and saw no obvious errors in the calculations.
3. Air ambulance fee schedule development was discussed. Acting Director Ezzell acknowledged the board is tasked with adopting an air ambulance fee schedule in HB316. Implementation of a fee schedule may be challenged because the Airline Deregulation Act of 1978 prohibits air ambulance rate regulation by states.
4. The board requests from the Department of Law clarification on the following questions:
 - a. What is the board's authority under 23.30.097(j)?
 - b. Clarification on what happens on December 1, 2015 if the new fee schedule is not adopted i.e. do we have a fee schedule or not?
 - c. After the public comment period does the board have the authority to change the conversion factors?
 - d. Does the board have authority to set reimbursement rates for air ambulance services?
5. Board discussed its desire to have the Commissioner available at the next meeting.

Break 3:20pm-3:35pm

6. Member Hutchings moved to approve the amendments to:
 - a. 8 AAC 45.020(c), allowing filing of documents at any division office by mail, by facsimile, or electronic mail.
 - b. 8 AAC 45.020, to provide for electronic filing of certain reports and documents in compliance with Department of Labor and Workforce Development Commissioner's Order.
 - c. 8 AAC 45.032, allowing the division to establish electronic board files in a format prescribed by the director.
 - d. 8 AAC 45.060(b), allowing a party to file a document other than the annual report by mail or electronic filing in compliance with the Department of Labor and Workforce Development Commissioner's Order No. 001, dated April 23, 2015.
 - e. 8 AAC 45.550(c) to allow service of a written reemployment plan's approval or denial to the parties by first class mail deleting the requirement for certified mail.
 - f. 8 AAC 45.550(d). Reemployment Benefit Administrator's (RBA) decisions shall be served by first class instead of certified mail.
 - g. 8 AAC 45.530(a). RBA eligibility determinations will be served by first class mail, not certified mail.
 - h. 8 AAC 45.082(m) establishing an effective date for the workers' compensation medical fee schedule.
 - i. 8 AAC 45.082(l)(2) definition of provider repealed.
 - j. 8 AAC 45.900 to include a definition of "provider." Motion seconded by Member Austin. The motion passed unanimously.

7. The board again expressed a desire to have the Commissioner of the Department of Labor and Workforce Development available at the next board meeting.
8. Next board meeting was scheduled for October 29-30, 2015.
9. Motion to adjourn was made by Member Hutchings at 3:48pm. Member Talbert seconded the motion. The motion passed unanimously.

Meeting Adjourned 3:50 pm