WMC

WISCONSIN MANUFACTURERS & COMMERCE

MEMORANDUM

TO: Worker's Compensation Advisory Council

FROM: Scott Manley, Vice President of Government Relations

DATE: May 27, 2015

RE: Workers Compensation reform proposals related to medical cost containment

Employers have been increasingly concerned in recent years with the apparent growing cost of medical costs within worker's compensation. Many employers believe the growing costs are a competitive disadvantage for Wisconsin, despite the high quality of care received by injured workers. In 2014, the WCAC unanimously supported a fee scheduled based on the average negotiated group health discount, plus 10% to cover the administrative costs providers face in the worker's compensation system. That proposal, which was a unique variation of the solution 44 other states have implemented, did not gain support from lawmakers in part due to the opposition that arose from medical providers.

Over the last several months WMC has worked with payer, provider, and insurance companies to develop a policy solution that we believe all parties can support. WMC believes that the strategy outlined below gives our state an opportunity to use market forces to negotiate meaningful discounted pricing within worker's compensation without jeopardizing quality of care. The plan also implements a number of cost saving measures, such as electronic billing, payment, and medical records, to help reduce the cost of administering worker's compensation.

Combined with the memo we sent on April 27th, this is a significant reform package for Wisconsin that, once implemented, would set our state on a path for savings within worker's compensation without hurting the high quality care we currently enjoy.

Worker's Compensation Medical Cost Management Council—This reform package centers on the creation of a new entity within the Office of the Commissioner of Insurance charged with implementing a number of reforms to reduce the cost of delivering and managing medical care, while not affecting the quality of care. The new council would also be in charge of negotiating discounts for worker's compensation claims by contracting with a vendor to conduct price negotiations with providers. A suggested makeup of the council would be as follows: 2 representatives of worker's compensation insurance carriers, 2 representatives from employers who are self-insured for worker's compensation, and 2 representatives of the medical community. Those 6 individuals would be appointed by the Governor, with consent from the State Senate, to serve staggered 3 year terms. The chair and 7th voting member of the council would be the Wisconsin Commissioner of Insurance.

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Founded in 1911, WMC is Wisconsin's chamber of commerce and largest business trade association.

Technology Platform— In contrast to the group insurance system, worker's compensation is currently a paper intense system. Some states have instituted electronic reporting systems that would benefit Wisconsin. Under this proposal the council will use a competitive bid process to introduce a technology platform to facilitate compliance with electronic billing, payment, claim status, payment status, and medical records transmission for medical providers and payers. Transaction fees will be assessed to providers and payers to fund the system.

While Workers Compensation claim investigation is significantly more complex than what is required for group health insurance some payers in the system appear to inordinately delay payment to providers, even in situations where compensability or medical necessity are not in question. This adds cost to the system and creates frustration. Especially with the introduction of electronic billing and payment, tighter standards and increased penalties for unsupported late payments should be introduced.

Data Collection and Price Negotiation— The council will be statutorily empowered to collect cost of service and quality data from medical providers for procedures that constitute at least 90% of the medical spending in Workers Compensation for the most recent year that data is available, to be used while negotiating price discounts with individual medical providers. This is estimated to be 40 to 50 procedures. The price discounts negotiated with each provider would then be available to all payers in the system who utilize that provider. Data for individual practice providers and smaller provider groups could be accumulated and regionally adjusted to arrive at targeted negotiated discounts. The cost of this service will be paid through payers remitting a percentage of savings from the negotiated discounts realized by the council. A competitive bid process will be used to select a vendor(s) to manage this process.

Directed Care and Data Resource—This proposal calls for state statutes to be amended to allow employer direction of care for worker's compensation cases. Directed care standards should be mindful of worker preference to be treated by their primary care physician for the majority of small and routine claims.

The council will make available to all system payers the cost and quality of care data that it collects for the procedures reviewed. Payers may use this data to make decisions on direction of care for workers. The vendor that manages the data collection process will be responsible for maintaining and distributing this data. The cost will be included within the data collection and price discount negotiation reimbursement and should be included as a part of vendor's bids.

Discount Dispute Resolution Panel—If the council, through its vendor, is not able to reach agreement with a provider on the discount level to be offered on a procedure, an independent Dispute Resolution Panel will mediate between the Council and the medical provider.

The Governor will appoint the dispute resolution panel. The panel shall consist of two representatives from the medical provider community, two members representing worker's compensation payers, and a Certified Public Accountant. Panel members will be appointed for a term of three years. The panel will meet no less than once per quarter. The panel will focus on cost and quality data in rendering their opinions.

Treatment Guidelines and Utilization Review Panel—Care can be improved and costs reduced with improved treatment guidelines, especially for significant procedures. A recommended model to adopt would be the American Medical Association treatment guidelines. Closely related would be an enhanced utilization review process. The process provided for in DWD 80.73 Act should be enhanced to improve effectiveness. The objective would be to create a more effective process that is binding on parties, while of course having an appeal process.

Enforcement—OCI shall be empowered to assess late payment penalties on payers that exceed payment standards or fail to communicate when claims are in dispute for compensability. If a business fails to report a known claim to their insurance company that results in a late payment the business shall be responsible for the penalty. Penalties may also be assessed for payers who, as evidenced in their outcomes in disputing compensability, demonstrate a pattern of using disputes to delay payment.

OCI shall also be empowered to assess penalties against medical providers who fail to provide cost and quality data within established time frames or who display a pattern of providing that data inaccurately or incompletely.

Thank you for your consideration of this reform package. Please contact me or Chris Reader if you have questions.