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Surgeons Fleeing Md. System, but No Fee Fix in Sight [10/27/05]

Maryland physicians and labor advocates say the state's new Medicare-based fee schedule is driving orthopedic surgeons out of the system, but members of a legislative oversight panel got no answer Wednesday when they pressed the chairman of the Workers' Compensation Commission to say when he would fix the problem.

Charles Rush, a member of the General Assembly Workers' Compensation Benefit and Insurance Oversight Committee, said his group tried with no success to get WCC Chairman R. Karl Aumann to commit to a time frame during a meeting in the Senate office building in Annapolis. Rush predicted fireworks when the committee meets again on Dec. 7 -- fittingly on the anniversary of the Pearl Harbor attack -- because "bombs are going to drop," he said.

"How many times are we going to beat this horse before he drops dead on us?" said Rush, a building trades representative on the legislative oversight group. "Somebody has to step up and do something and jerk the regulations and bring the orthopods up with everybody else."

The Maryland WCC adopted a medical fee guide in September 2004 that set the rates for physician services at 109% the amounts paid by the federal Medicare program. Although the change in formula was "revenue neutral" overall, orthopedic surgeons, neurologists and other specialists saw big reductions in their fees, said Chris Costello, executive director of the Maryland Workplace Healthcare Association.

Costello said injured workers are now having a hard time finding surgeons willing to perform needed operations. He said the problem will only grow worse as physicians abandon the workers' compensation system altogether and lay off the "back room" billing specialists who collect from workers' comp carriers. Costello said the situation is especially tragic because Johns Hopkins Medical Center in Baltimore offers some of the best orthopedic and neurosurgical care in the nation.

According to written testimony that Costello presented Wednesday to the oversight committee, the Medicare-based fee schedule reduced the fee for a lumbar laminectomy by 106%, a knee arthroscopic surgery by 154% and a hernia operation by 78%.

"The level of difficulty and the specialized nature of workers' compensation related health care explains why relatively few health care providers choose to accept workers' compensation patients and why such care requires higher levels of reimbursement," he wrote.

Under pressure from physicians, former WCC Chairman Thomas P. O'Reilly proposed a rule change earlier this year. But Costello said O'Reilly's draft rules changed everything in the fee schedule except the Medicare-based reimbursement formula. The WCC quietly rescinded its proposal shortly before O'Reilly resigned his chairman's post. Gov. Robert L. Ehrlich appointed Aumann to replace him on Oct. 19.

While the issue of the reimbursement rate has still not been resolved, physicians are at least celebrating the WCC's decision to rescind the previous draft rules, which Costello said had "something in it to offend everyone."

One of the most controversial provisions would have created a list of physicians authorized to treat injured workers. Another lightning rod in the regulations would have allowed insurers to sign contracts with physicians and pay prices for services that vary from the medical fee guide.

Costello said the intent of the proposed rule was to allow insurers to pay more than the fee schedule for certain procedures so they could find physicians willing to treat injured workers in desperate need of surgery. The list would have given claims adjusters a place to direct workers who have trouble finding doctors willing to treat them.

But physicians saw the proposed rule as a movement toward managed care in the Maryland workers' comp system, said Mike Preston, chief executive officer of the Maryland Medical Society. Injured workers now get to choose their own treating physicians.

Preston said insurers have already started paying outside the fee schedule without the proposed rules and physicians have filed suit to stop them. And he said he doesn't understand why state regulators want to reform the payment system in a state that ranks 40th of the 50 states in workers' compensation payroll costs, according to an annual survey by the Oregon Department of Consumer and Business Affairs.

"We're not sure what actually is motivating it, it's not an uncompetitive cost environment, so they may have been trial balloons," Preston said of the proposed regulations. "It doesn't appear to be on top of the business community's agenda as an issue."

--By Jim Sams, WCC senior editor