



# MWHCA

Maryland Workplace Health Care Association, Inc.

October 26, 2005

To: Honorable John F. Wood, Jr.  
Presiding Co-Chairman

Hon. Nathaniel Exum  
Co-Chairman  
Joint W. C. Benefit and Insurance Oversight Committee

Fr: Christopher B. Costello  
Executive Director

Re: MWHCA Statement for the WC Benefit and Insurance Oversight Committee

Subj: 1) Maryland Medical Fee Guide  
2) Injured workers' access to medical care  
2) "Prompt Payment" for workers' compensation related health care  
4) High cost for prescriptions for injured workers - proposed legislation  
3) Licensing and regulation of insurance claims adjusters

## **BACKGROUND**

### MEDICAL FEE GUIDE

MWHCA members implore the WC Oversight Committee to take a direct interest in revising the Medical Fee Guide. Since its inception, every revision has imposed a "Cost Neutral" bias. The effect of this bias has been a gradual deterioration in the fairness with which health care providers are compensated for workplace injuries. It was for this reason that the Maryland General Assembly inserted a requirement that the Commission survey the prevailing cost for health care in the community when revising the Fee Guide. Unfortunately the kind of survey envisioned by the General Assembly has not been conducted.

### INJURED WORKERS ACCESS TO CARE RESTRICTIONS

The attached survey of Nurse Case Managers provided by the Chesapeake Association of Rehabilitation Providers in the Private Sector (CARPPS) offers compelling evidence of a significant access to care concern for injured workers in Maryland. The survey clearly indicates that the concerns in question stem from the WC Commission's revision of the Maryland Medical Fee Guide in September 2004.

### UNWARRENED DELAYS IN PAYMENT FOR HEALTH CARE SERVICES

Workplace health care providers in Maryland experience significant, unwarranted delays in the receipt of payments for health care services. Of significant concern are two issues:

- (1) Insurers that refuse to compensate health care providers for health care that has not been pre-approved; and
- (2) Unreasonable demands by insurers for pre-authorization as well as documentation and medical reports for any health care, including that which has been pre-approved.

## HIGHER COST OF PERSCRIPTIONS FOR INJURED WORKERS

Recently released information provided by the National Council on Compensation Insurance indicates that the cost of medical care provided to injured workers in Maryland is lower than most other states; however, the cost of prescriptions are 75% higher for workers' compensation than for group health insurance.

## REGULATION FOR INSURANCE ADJUSTERS

Maryland does not regulate the qualifications, training or competency of insurance company claims adjusters. In addition, recent legislative and regulatory proposals have suggested that the claims adjusters, rather than the injured worker's health care provider,<sup>1</sup> should determine which health care services are appropriate for injured workers have led both workers and health care providers to believe such regulatory authority is needed. Insurance claims adjusters have assumed authority not specifically granted by law, such as: unwillingness to pay for any health care services that the adjuster has not pre-approved; arbitrary reductions in health care fees below the medical fee guide; and generally dictating the terms and conditions under which health care is provided and providers compensated.

MWHCA members believe that regulating insurance claims adjusters will help to insure that adjusters will be better educated regarding the requirements of Maryland's insurance laws and regulations, more responsive to the needs of claimants, and more conscientious in the timely payment of health care fees.

## **RECOMMENDATIONS**

### **Maryland Medical Fee Guide Revision** (see Addendum)

- 1) Require the WC Commission to conduct a survey of work related health care costs as required by the WC Statute
- 2) Preclude the imposition of a "cost neutral" constraint or any other bias when conducting future surveys used in the revision of the Fee Guide;
- 3) Incorporate the health care fees from the Fee Guide in effect prior to September 2004 as the minimum fee for a Fee Guide revision using the RBRV System.
- 4) Require the WC Commission to approve additional "Multipliers" as needed to permit the RBRV System to adequately represent the prevailing costs for workplace health care.

### **W C Oversight Committee requested reports and surveys:**

Over the years since its inception, the WC Oversight Committee has relied on statistical updates pertaining to workers' compensation activity provided by NCCI. We believe the Oversight Committee would also benefit from reports and surveys from other reliable sources providing information related to the access to and quality of health care available to injured workers. Such survey as:

- (1) Nurse Case Manager survey regarding the access to health care provided by Chesapeake Area Rehabilitation Professionals of the Private Sector

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<sup>1</sup> utilizing Evidence Based Medicine guidelines and surveys



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- (2) Medical Practice Administrator survey of difficulties and delays in the payment for health care, which could be prepared by this organization (MWHCA) and/or MedChi.

## **Propose - W C Oversight Committee resolution:**

The WC Oversight Committee should take appropriate action to require the WC Commission (or any committee, work group, etc. organized by the W C Commission) to conform with Maryland's Open Meeting Law when reviewing public policies pertaining to any of the following issues:

- (1) Access to health care
- (2) "Evidence Based Medicine" guidelines for workplace health care
- (3) Maryland Medical Fee Guide
- (4) Prompt payment for workers' compensation related health care
- (5) Assignment of the WC Commission's authority/responsibility, regarding workers' compensation related health care services, to any other entity.

## **Recommend - W C Oversight Committee sponsor legislation:**

- (1) Permit/enable insurers and self-insurers to utilize "Pharmacy Benefit Management" (PBM) services to control costs related to prescriptions for workers' compensation related injuries.
- (2) License and regulate insurance claims adjusters.
- (3) Assignment of responsibility for the enforcement of prompt payment for undisputed workers' compensation health care ("clean claims") provided under an insurance contract, to the Maryland Insurance Administration.