

Good afternoon,

As many of you know from our phone conversations and elsewhere, the medical-legal fee schedule stakeholder meetings continue. The next is a few days from now - Friday, January 10 at the DWC offices in Oakland.

- Meanwhile, the WCAB adopted a comprehensive package of [new rules](#) now in effect. In its initial statement of reasons, the Board stated the primary purpose for the changes and revision was, "to renumber and reorganize the rules for ease of use" due to decades of unwieldy changes that caused the rules "as a whole (to) become difficult to navigate even for experienced practitioners, not to mention Injured workers, medical practitioners....and other system users."

The Board worked carefully to respond to industry input during the rulemaking period and as time goes by we will learn how well it attained its goal.

- Unfortunately, the MLFS may or may not be any closer to final resolution. A series of stakeholder meetings attended by yours truly and several other provider and payor-side participants were held in the closing weeks of 2019.

Three main topics have been discussed and remain in varying degrees of resolution. The topics are report quality, the QME system itself and, oh yes, reimbursement. The first two topics seem to resonate and appear to be the closest general agreement. How agreed improvements are implemented has yet to see real language. The fees themselves remain to be decided and span a relatively wide range of "solutions."

The basic structure remains as speculated and well reported - a flat fee that includes review of an as-yet-to-be-decided number of pages of records and per page reimbursement for all pages that exceed that number. The number of pages of records has become a surrogate for "complexity." This is an assumption remaining to be validated and resolved. It will be the submitter's responsibility (and cost) to submit records to an as-yet-to-be-specified copy service/"clearinghouse" to cull out duplicate records so records received are not "wasted paper." Separate reimbursement for review of subrosa has been discussed but not decided.

Yes, there are several such details yet to be worked out. More thoughts on that issue in a moment.

The assumption that the volume of pages equals complexity may stand up for a fair number of cases and remains the most verifiable datapoint. But it is clear to all that some pages are "denser" in medical and relevant content than others and it is equally clear - to the providers anyway - that the surrounding issues often make the analysis and synthesis of medical content more complex regardless of the number of pages. At a minimum, mental health and many internal medicine cases are generally accepted as more complex by their very nature and in the "usual" context of the overlying claim. It remains to be seen how this issue will be resolved.

The need for a missed appointment fee and other considerations are generally agreed, but the specific circumstances for eligibility remain undetermined.

Back to the turning wheels...stakeholders attending these meetings have been met with mixed messages from the Division. To its credit, on the one hand the Division legal staff have been attentive and expressed a desire to clearly understand the real-life nuances of the industry rather than the stereotypical bureaucratic approach. But stakeholders have needed to insist we remain engaged directly with the staff in completing the project including drafting the language for all three topics. Our ongoing involvement has yet to be determined.

The fee schedule and accompanying regulations need to work in real life. The providers and payors who work within the system on a day-in and day-out basis are the best sources of that realism. Unfortunately, the Division may feel it must "produce" because the Legislative Audit Committee report says it must.

No one wants this process to drag on any longer than necessary. Notwithstanding, pressure from the Audit Committee should not cause this process to be rushed to a conclusion. Nor should it give the Division any reason to go behind closed doors as in the past.

Again, without dragging the process out unnecessarily, this Friday's meeting cannot not be the last.

It is more important than ever the Division move closer to all industry participants for the practical knowledge it lacks so the draft regulations are workable, fair, and easy to understand and put into practice.

Nothing will be accomplished if the dearth of evaluators and lack of availability remains ignored and chronic. Nothing will be accomplished if evaluators are not provided a system that helps them improve their work product without being threatened with reprisal. And nothing will be accomplished if a new fee schedule raises reimbursement but does nothing to dramatically reduce the friction that exists when services are properly rendered and payment is due.

As a new year - a new decade - begins, I look forward to hearing from you.

Thank you to all of you who have renewed.

Look for an update soon.

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