Workers' Compensation Task Force
Friday, April 4, 2014
10:00 a.m.

AGENDA

1. Approval of minutes
2. Discussion of specific reform proposals from task force members:
   a. Medical fee schedule proposal from HCAP members (attached to agenda)
   b. Medical fee schedule proposal from Senator Blevins, Representative Briggs-King, Lt. Governor Denn, Senator Hocker, and Representative Bryon Short (attached to agenda)
   c. Adoption of employer-directed care statute (Lee Dotson)
   d. Start working relationship with WCRI (Lee Dotson)
3. Public comment

Health Care Advisory Panel
Cost Savings Proposal to the Workers' Compensation Task Force
April 4, 2014

The DE Workers' Compensation Health Care Payment System (HCPS) contains several different types of reimbursements within its fee schedule component, such as professional services, anesthesiology, pharmacy, hospitals, and ambulatory surgery centers (ASCs). In 2013, the Health Care Advisory Panel (HCAP) made significant cost-saving reductions to many of the reimbursement types within the overall fee schedule component, which included adopting a Medicare-based relative value methodology to eliminate professional services charges paid at 85 percent of charge (85POC), significantly reducing treatment frequencies throughout the Health Care Practice Guidelines, and adding a mandatory pharmacy formulary, etc. The subsequent actuarial analysis indicated more savings were needed to reduce Delaware workers' compensation insurance rates.

To accomplish this task, the HCAP proposes the following three-component, Medicare-based model:

1) Reliance upon Medicare's Resource-Based Relative Value Scale (RBRVS) for professional services, etc., as well as Ambulatory Payment Classifications (APCs), which is the ambulatory surgery center (ASC) equivalent.
2) Develop Delaware data-based conversion factors, which are calculated using Delaware data and Medicare's RBRVS or APCs.
    a. Conversion factors for professional services are category specific – e.g. Evaluation and Management; Health Care Common Procedure Coding system (HCPCS); Laboratory; Radiology; Surgery; Medicine; Pain Management (e.g. injections, etc.); Chiropractic; and Physical Therapy, etc.
    b. Calculate one conversion factor for ambulatory surgery center fees Delaware data.
3) Geozip adjustments.

The Health Care Advisory Panel (HCAP) respectfully proposes the following cost saving initiatives:

<u>Professional Services, Laboratory, DME, Pathology, et al.</u>

In 2013, the HCAP established maximum allowable payments for those treatments and services in the itemized schedule for professional services, etc., paid at eighty-five percent of charge (85POC). At that time, OptumInsight, a nationally recognized expert in fee schedule development, used this same three-component, Medicare-based model to create specified fees for the 85POC fees.

PROPOSAL

The goals:

1. Accomplish a 20% savings in the itemized schedule of maximum allowable payments ("the fees") for professional services, laboratory, durable medical equipment, pathology, etc.
2. Convert the methodology for this schedule of fees to the same Medicare RBRVS-based model employed in 2013 (RBRVS multiplied by the DE specific conversion factors for each geozip).

The process:

1. Engage OptumInsight to use the same Medicare RBRVS-based methodology (RBRVS multiplied by the DE specific conversion factors for the two geozips) and reset the original maximum allowable payments in the schedule of fees, except for the 85POC fees already adjusted in 2013. Note the following:
    - In order to accomplish the overall 20% savings, some professional services may be reduced by more than 20%, some by less than 20%, and some may remain at their current amount.
    - Adjusted fees that calculate higher than the current specified fee in the schedule will remain at the current specified fee.

- Adjusted fees that calculate lower than the current specified fee in the schedule will be lowered to the adjusted fee.
- Ensure OptumInsight receives appropriate data to perform this function.

2. Engage an actuary to evaluate the overall percent of savings, and if necessary, recommend a further percentage reduction that will accomplish a 20% savings.

Ambulatory Surgery Centers (ASCs)

Pursuant to 19 **Del. C.** §2322B(9)(c), the HCAP has been working towards a Medicare-based system of "maximum allowable payments" for treatments in ASCs. Apart from the fee freeze, each ASC currently is paid at a unique percent of charge with an annual billing verification component that adjusts the percent of charge (the starting point was 85%) based on a comparison of the prior fiscal year rate change to the change in the Consumer Price Index for medical. During the current fee freeze, the percents of charge rates are adjusted based on a comparison of the prior fiscal year rate change to zero.

PROPOSAL:

The goals:

1. Establish a Medicare APC-based, revenue-neutral schedule of maximum allowable payments applicable to all ASCs.
2. Accomplish a 15% savings in Ambulatory Surgery Center (ASC) fees.

The process:

1. Engage OptumInsight to calculate a Medicare APC-based fee schedule, develop a conversion factor using Delaware data, and perform a geozip adjustment. Reduce the fees to accomplish a 15% savings. All ASCs would be subject to the new schedule of fees.
    - One of the past barriers has been the inability to validate the DCRB's data, given the way it is reported and the DCRB's position about sharing certain fields. Modify the statute to ensure OptumInsight receives appropriate data.
2. Engage an actuary to evaluate the overall percent of savings, and if necessary, recommend a further percentage reduction that will accomplish a 15% savings.

Hospitals

Pursuant to the August 7, 2012, revisions to 19 **Del. C.** §2322B(8), hospitals are paid at a percent of charge with an annual billing verification component that adjusts the percent of charge (the starting point was 80%) based on a comparison of the prior fiscal year rate change to the change in the Consumer Price Index. During the current fee freeze, the percent of charge rate is adjusted based on a comparison of the prior fiscal year rate change to zero.

PROPOSAL:

The goals:

1. Reduce the current hospital charges by 20%.
    - Reduce the current hospital percent of charge from 75.64% to 60.50 %.
2. Engage an actuary to evaluate the overall percent of savings, and if necessary, recommend a further percentage reduction that will accomplish a 20% savings.
3. Work with hospitals and OptumInsight to consider transitioning to a Medicare-based Diagnosis Related Group (DRG) methodology for setting a revenue-neutral schedule of fees. DRGs are Medicare's relative value system for hospitals and can be weighted by type of hospital (e.g. trauma, teaching, etc.), as well as by geozip.

PROPOSAL TO ESTABLISH FEE SCHEDULE FOR DELAWARE WORKERS COMPENSATION PATIENTS

Proposed by Senator Blevins, Representative Briggs-King, Lt. Governor Denn, Senator Hocker, and Representative Bryon Short

The Health Care Advisory Panel shall develop, by September 30, 2014, a new fee schedule specifically for medical services provided to workers compensation claimants in Delaware. The allowable fees shall be based upon a relative value unit based scale, either the RBRVS scale used by the Centers for Medicare and Medicaid Services, or an alternative relative value unit based scale currently being used by at least one other state for purposes of its workers compensation payments. The RBRVS reimbursement for each procedure shall be multiplied by a geographic factor to account for in-state regional differences in medical reimbursements, and by a procedure-specific Delaware multiplier to ensure adequate participation by providers. However, no individual procedure in Delaware (as identified by HCPCS level 1 or level 2 code) in a non-facility setting shall be reimbursed at a rate higher than the highest reimbursement for that procedure in the states of Maryland, Pennsylvania, and New York; and no individual procedure in Delaware (as identified by HCPCS level 1 or level 2 code) in a facility or ambulatory surgical center setting shall be reimbursed at a rate higher than the highest reimbursement for that procedure in the states of Maryland, Ohio, and Georgia (states with uniform facility fee schedules). The Delaware Secretary of Labor shall verify that the fee schedule meeting this requirement has been adopted by the Health Care Advisory Panel (or its successor) by the required date, and if it has not, fees shall be paid at the rates approved for the state of Maryland for specific procedures until the Delaware fee schedule is in place.