



December 5, 2019

Worker's Compensation Advisory Council
Steve Peters, Chair
201 E. Washington Avenue
Madison, WI 53702

Dear Administrator Peters:

The health care provider liaisons to the Council object to an item we understand the Council intends to include in the proposed bill it will ask the legislature to consider.

In its March 7, 2019, letter to you, the Wisconsin Insurance Alliance claimed that "law firms are experiencing issues obtaining billing statements from medical providers." WIA went on to ask the Council to include a provision in its proposed bill that would require health care providers to provide:

- Patient health care information, including information that is protected by HIPAA, confidential under Wisconsin's patient health care record statute, and potentially protected by the Wisconsin mental health care statute, to the worker's employer's WC insurance company representatives, including law firms, nurse case managers, "etc."
- "A complete billing statement on either the HCFA or UB40 form," which are paper-based forms and not the standard transactions for the electronic exchange of health care data generally used for billing purposes.
- The complete paper form to the insurer's representatives upon request and without charge.
- The requested paper form within 30 days or else be barred from collection from the WC insurer, presumably shifting the costs to health care insurers or the injured patients themselves.

The WIA proposal does not explain why a representative of an insurance company cannot or will not obtain copies of records from the insurer, his or her client. Proposing free copies of statements that already have been submitted to the insurer by the provider for payment is tantamount to demanding free access to the providers' copiers and health information management staff for the insurers' operations. We ask the WCAC to reject WIA's efforts.

Health care providers take protecting patient health care information seriously. If the WCAC, the legislature, and the Governor determine that the Worker's Compensation statute should provide insurer representatives with the explicit right to access confidential patient information directly from the patient's health care provider, we ask that the required legislation address the following issues:

- Identification of the insurer representative. A health care provider must be able to determine whether it can disclose the confidential patient information to the person requesting it. The legislation should define insurer representatives precisely and state how a provider can determine the person claiming to be a representative is authorized to receive the patient information.
- Fees for redundant record requests. The Worker's Compensation statute currently includes medical record copy fees that are well below the cost of making copies. The proposal should not

go beyond the already discounted rates. Any request for copies of statements or reports that have been submitted to the insurer previously should be subject to a higher copy fee. The proposal encourages inefficient payer systems; multiple requests for copies should be discouraged, not rewarded.

- Paper based forms. The proposal should not, in effect, require providers to support an antiquated paper-based system. The WCAC, instead, should work with insurers and providers to identify the best ways to make the system more efficient.
- Reimbursement for health care services. The WIA proposal to eliminate WC insurer payment for health care services received by an injured worker because the provider does not submit multiple copies of patient information does not make sense. The insurers, by increasing the administrative burden of the program while putting reimbursement at risk, unfortunately, appear to be working to reduce the number of providers willing to participate in the WC program. This proposal should anger the WCAC.

The health care provider liaisons are surprised the WIA proposal was taken seriously. An insurer's representative performing services for the insurer should obtain the information needed to perform those services from the insurer. If the WCAC, the legislature, and the Governor agree that the WC statute should be amended to provide specific authority for insurance representatives to request and receive protected patient health care information from the injured worker's health care provider, we ask that the statute change be carefully crafted, making sure it is consistent with other applicable laws, and does not damage to the Wisconsin Worker's Compensation program.

Sincerely,

Thomas Moore, Wisconsin Chiropractic Association
Lisa Ellinger, Wisconsin Hospital Association
HJ Waukau, Wisconsin Medical Society
Annie Early, Wisconsin Physical Therapy Association