

BWC Board of Directors

Audit Committee

Thursday, September 25, 2008, 4:00 p.m.

William Green Building

Neil Schultz Conference Center
30 West Spring Street, 2nd Floor (Mezzanine)
Columbus, Ohio 43215

Members Present: Kenneth Haffey, Chairman
Robert Smith, Vice Chair
James Harris
William Lhota

Members Absent: Jim Matesich

Other Directors Present: Charles Bryan, David Caldwell, Alison Falls, James Hummel,
Thomas Pitts, and Larry Price

CALL TO ORDER

Mr. Haffey called the meeting to order at 4 p.m. and the roll call was taken.

MINUTES OF AUGUST 28, 2008

Mr. Smith moved that the minutes of August 28, 2008, be approved. Mr. Lhota seconded and the minutes were approved by a unanimous voice vote.

EXECUTIVE SESSION

Mr. Haffey moved that the Audit Committee enter executive session pursuant to Ohio Revised Code §121.22(D)(2) for the purpose of conducting an audit conference with Mr. Joe Patrick of Schneider Downs & Co. Inc. He discussed the status of the audit which was due to the Auditor of State by September 30, 2008. Mr. Lhota seconded and the motion was approved by unanimous roll call vote.

ADJOURNMENT FROM EXECUTIVE SESSION

Mr. Lhota moved that the Audit Committee adjourn from executive session. Mr. Smith seconded and the motion was approved by unanimous roll call vote.

FOLLOW-UP ITEMS FROM AUGUST MEETING

Joe Bell, Office of Budget and Management, Chief Audit Executive, and Caren Murdock, Chief of Internal Audit, reported on the internal audit executive summary for the fourth quarter of fiscal year 2008. Four new audits have been completed: the subrogation program, the process for forthwith and miscellaneous special payments, a Managed Care Organization (MCO), and draft policies and procedures manual for the Employer Compliance Department.

Ms. Murdock reported that Internal Audit identified four material weaknesses and eight significant weaknesses in the subrogation program. Four of these were corrected immediately.

Mr. Haffey asked when the last internal audit of the subrogation program was conducted. Ms. Murdock replied that this was the first audit. Mr. Bell added that the audit was conducted after observing growth of collections and focus of the program.

Ms. Murdock next reported that Internal Audit had identified seven significant weaknesses in the forthwith and miscellaneous special payments process. Five of the weaknesses have been resolved through implementation and validation. Mr. Haffey noted that the audit was completed in July 2008 and resolutions have been implemented and validated.

Ms. Murdock also reported on an audit of an MCO. Internal Audit identified six significant weaknesses, of which two were implemented and validated. Additional weaknesses are targeted for completion in December 2008.

Ms. Murdock reported that Internal Audit reviewed a draft of the Employer Compliance Department policies and procedures manual to provide proactive guidance for designing internal controls. Five minor recommendations were identified for management consideration.

Ms. Murdock further reported on outstanding audit comments as of June 30, 2008. In addition, proposed audit changes to the audit plan were discussed – delaying the Safety and Hygiene audit to the third quarter while moving the Fleet and Self Insured Bankrupt Securitization Process audit to the second quarter. The department has seven of nineteen staff positions which need filling, including, especially, an investments auditor.

NEW BUSINESS/ACTION ITEMS

RULES FOR FIRST READING: INPATIENT HOSPITAL PAYMENT, OHIO ADMINISTRATIVE CODE RULE 4123-6-37.1

Robert Coury, Chief Medical Services & Compliance, recommended amendment of Ohio Administrative Code Rule 4123-6-37.1 to adopt a new inpatient hospital fees schedule. This is a first reading of the rule. The new schedule was presented to the Ohio Hospital Association in July and August. After approval, the rule will go through the process of the Joint Committee on Agency Rule Review (JCARR) for enactment in February 2009. BWC is adopting the methodology of the Medicare Severity Diagnosis-Related Groups. Ann Casto, Casto and Associates, explained the Medicare reimbursement system and how BWC is adopting it for the fee schedule. Special attention will be paid to outlier cases, where the patient is admitted at the time of injury for an extended stay.

Mr. Harris asked if the proposal had been presented to stakeholders. Mr. Coury replied that it was presented to them on August 2008 and BWC had received preliminary support. Mr. Harris asked if BWC had researched the Federal Register for comments on Medicare rules. Ms. Casto replied that she has read all comments in the Federal Register and that a majority of comments are not directed to these changes.

Mr. Pitts asked about the exclusion by BWC of the Medicare provisions on hospital-acquired conditions. Ms. Casto replied that it is very controversial because Medicare reduces payments for thirteen types of conditions which could be present at admission.

RULES FOR CONSIDERATION AND POSSIBLE VOTE: PROFESSIONAL PROVIDER FEE SCHEDULE, OHIO ADMINISTRATIVE CODE RULE 4123-6-08

Mr. Haffey recused himself from discussions and vote on this rule because of his prior relationship with a provider. Mr. Smith assumed the chair of the Audit Committee for this issue.

Mr. Coury and Jean Graff, Medical Policy Analyst, recommended approval of amendments to Ohio Administrative Code Rule 4123-6-08 on the professional provider fee schedule. Mr. Coury reviewed the time-line for adoption. The rules were posted to the BWC web-site in July and two hundred comments have been collected. BWC plans to implement the rules in January after approval by the JCARR process.

Mr. Harris asked if BWC has comparisons of utilization with other states. Mr. Coury answered that BWC did not have enough data to measure provider performance. The goal is to have that data by the third quarter of 2009. Ms. Graff reported that the data so far shows some states limit the number of treatments of specific therapies.

Mr. Price asked for an interpretation of the mean average conversion factor comparisons. Ms. Graff replied that Ohio falls in the middle of all states that BWC has been using as a comparison.

Mr. Lhota asked when BWC would come to the Workers' Compensation Board again for new provider rates. Mr. Coury replied that BWC will return in 2009, beginning the process in October 2008. In March 2009, new rules will be brought before the Workers' Compensation Board, to go into effect in July 2009. Mr. Lhota stated that he supported the methodology presented to the Audit Committee at the August meeting and would support an alternative since BWC will be returning to the Workers' Compensation Board in early 2009.

Mr. Pitts asked if the Miller criteria should control until the 2009 fee changes. Mr. Coury agreed. Mr. Smith asked if, aside from the Miller criteria, BWC should compare itself with other states. Mr. Coury replied that Ohio should make comparisons and that is the reason for the need for utilization review.

Mr. Lhota requested a recommendation from BWC on whether to raise total provider fees by a total of 5% or 6%. Mr. Coury replied that BWC had no change from its recommendation in August to raise fees by 5% because BWC would be back to the Workers' Compensation Board in six months with more data and another recommendation.

Mr. Lhota moved that the Audit Committee recommend the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend Rule 4123-6-08 of the Administrative Code Rule, "Bureau Fee Schedule," to adopt the provider fee schedule effective January 1, 2009. The motion consents the Administrator amending Rule 4123-6-08 and enacting Appendix A to the Rule as presented here today.

Mr. Smith stated that this was the same motion approved at the August meeting of the Audit Committee. Mr. Price noted that the recommendation was withdrawn at the meeting of the Workers' Compensation Board. James Barnes, Chief Counsel, pointed out that the vote of the Audit Committee was not rescinded. Mr. Price stated that it would be better to amend the recommendation and the motion to amend must come from one of those who voted for the original motion. Mr. Smith stated he would rather take back the August motion to the Workers' Compensation Board at its September 26 meeting.

Of those present today and voting for the motion at the August meeting, neither Mr. Smith nor Mr. Lhota moved to amend the August motion.

The motion of Mr. Lhota for the September meeting died for want of a second.

RULES FOR CONSIDERATION AND POSSIBLE VOTE: FIRE FIGHTING RULES, OHIO ADMINISTRATIVE CODE RULE/CHAPTER 4123:1-21

Mr. Haffey resumed his position as chair of the committee.

Tom Sico, Assistant General Counsel, recommended adoption of amendments to the fire fighting safety rules. The amendments were distributed to stakeholders by CD-ROM.

Mr. Lhota asked why BWC did not adopt NFPA safety rules in total. Mike Ely of the Division of Safety and Hygiene replied that these rules are in a multivolume work. Also, many Ohio local and volunteer departments lack resources to adopt all rules.

Mr. Smith moved that the Audit Committee recommend that the Bureau of workers' compensation Board of Directors approve the Administrator's recommendations on the five-year rule review of seven fire fighting safety rules of chapter 4123:1-21 of the Administrative Code. The motion consents to the Administrator amending the seven fire fighting rules of chapter 4123:1-21 as presented here today. Mr. Lhota seconded and the motion was approved by a unanimous roll call vote.

ADJOURNMENT

Mr. Lhota moved to adjourn, Mr. Smith seconded and the meeting was adjourned.

Prepared by: Larry Rhodebeck, Staff Counsel
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