

**BWC Board of Directors**  
**Medical Services and Safety Committee**

**Wednesday, July 28, 2010, 8:30 AM**

Level 2, Room 3 (Mezzanine)

30 West Spring St.

Columbus, OH 43215

Members Present: James Harris, Chair  
Alison Falls  
James Hummel  
James Matesich  
Thomas Pitts  
William Lhota, *ex officio* (arrived at 9:38 AM)

Members Absent: None

Scribe: Ann M. Shannon, Legal Counsel

Counsel present: John Williams, Assistant Attorney General  
James Barnes, BWC General Counsel and Chief Ethics Officer

Other Directors Present: David Caldwell, Kenneth Haffey, Larry Price, and Robert Smith

**CALL TO ORDER**

Mr. Harris called the meeting to order at 8:30 AM, and the roll call was taken. All members except Mr. Lhota were present. Mr. Lhota arrived at the meeting at 9:38 AM. Mr. Harris welcomed new committee members Ms. Falls and Mr. Matesich.

**MINUTES OF MAY 27, 2010**

Mr. Harris noted the following changes to the minutes of June 17, 2010. In the last full paragraph, page 3: “Mr. Johnson, in summarizing the ~~impacts-proposal~~, noted estimated cost impacts could be higher, dependent on the RVU factor. Additional codes will provide ease of access to medical care for injured workers. The addition of the new codes will reduce challenges which providers ~~have faced in rendering and~~ receiving reimbursement for ~~related~~ certain services. Lastly, the recommended changes will bring additional clarity to benefits which are covered, or which can be covered, pursuant to the application of the *Miller* Test, versus services which have been determined to be never covered under the Ohio BWC workers’ compensation benefit plan.” Mr. Hummel moved to approve the amended minutes and Ms. Falls seconded the motion. The motion passed with a 5-0 roll call vote.

**REVIEW AND APPROVAL OF AGENDA**

Mr. Harris noted that there was one addition to the agenda. Following the Customer Services Division Report, Dr. Balchick would provide a continuing education report regarding BWC’s recent medical conference on amputee rehabilitation. Mr. Matesich

moved to approve the amended agenda, and the motion was seconded by Mr. Pitts. The motion passed with a 5-0 roll call vote.

## **NEW BUSINESS/ACTION ITEMS**

### **1. Motions for Board Consideration**

#### **A. For Second Reading**

##### **1. Medical and Service Provider Fee Schedule, Rule 4123-6-08**

Mr. Freddie Johnson, Director of Managed Care Services, and Ms. Jean Stevens, ICD-9 Management Analyst Supervisor, Medical Policy, presented the second reading of the Medical and Service Provider Fee Schedule, (MSPFS), Rule 4123-6-08.

Mr. Johnson noted that since the last committee meeting, some of the data used for this fee schedule has been corrected and updated with changes that Medicare has adopted. The estimated financial impact of these changes since the last meeting is that fees overall will increase by 2.9%, versus the previous estimate of a 1.6% increase, with an overall estimated reimbursement of \$9.2 million. The estimated implementation date for this fee schedule will be October 25, 2010.

BWC sought feedback on this rule, and provided information regarding these updates to the fee schedule on July 14, 2010. All comments submitted to BWC have been provided to the Medical Services and Safety Committee. Because there has been an increase in the amounts of reimbursement and no other deviation, Mr. Johnson stated that BWC is confident that the feedback received to date and BWC's response to the same is reflective of the concerns of the stakeholders.

Mr. Johnson reviewed the categories of services which make up this fee schedule, as discussed during the first reading. There are three categories of reimbursement within the rule: Current Procedural Terminology (CPT) codes; Healthcare Common Procedure Coding System (HCPCS) codes; and local codes that are unique to Ohio's workers' compensation system. Also during the first reading, a review of the values and calculations of some of the CPT codes was provided. As a result of the updates that BWC has made since the first reading of the rule, reimbursements for some of these CPT codes will increase rather than decrease as initially thought. Overall, Mr. Johnson stated that the new rule continues to be a reflection of BWC's work to ensure quality access to medical treatment while maintaining competitive reimbursement levels.

Ms. Falls asked for further information to provide more context regarding the two goals of increasing the ease of access to injured workers to receive appropriate medical treatment and reducing challenges faced by providers in receiving reimbursement. Mr. Johnson replied by providing the example of an injured worker who received sutures at the emergency room, and now needs to have these sutures removed. Previously the reimbursement for removal of sutures was part of the global reimbursement for initial treatment of the injury. This could present an issue with reimbursing another provider other than the emergency room doctor where the injured worker went to another provider to have the sutures removed. With the changes to the reimbursement rule, the

injured worker would be able to go to his/her primary care doctor for suture removal instead of returning to the emergency room, and the primary care doctor can receive appropriate reimbursement for the care rendered. Another example concerned home health care and the occasional need for antibacterial soap or wipes. Previously, if the doctor prescribed such items for the care of the injured worker, BWC did not have reimbursement codes which provided for efficient and effective reimbursement. However, new codes have now been developed to more effectively and efficiently cover these types of costs.

Mr. Pitts asked regarding the last example if these were over the counter items that had been prescribed by a physician? Ms. Stevens responded that yes, these would be over the counter items that a doctor had prescribed. She further noted that if an injured worker is under BWC's care for treatment of a work related injury, BWC might be responsible for such items and our system might provide reimbursement. Mr. Pitts also asked about the cost comparison database that the stakeholders had requested and that BWC had agreed to create. Specifically, he inquired if there would be great expense and effort for BWC to create such a database. Mr. Johnson replied that BWC did not anticipate a great expense in creating the database, but that there might be expense and effort involved in providing accessibility to outside stakeholders.

Mr. Matesich asked for further explanation regarding the stakeholder comment that Medicare is not the appropriate benchmark for reimbursement of anesthesia services, and BWC's response that Medicare is the appropriate benchmark. Mr. Johnson replied that BWC has consistently found that Medicare's empirical research is a good basis from which to work. Medicare's underlying data is sound, and there is little debate at the national level on that point. Ms. Falls then noted from the data provided that there was great diversion among the states on the reimbursement level for anesthesia services. She asked whether these other states are relying on Medicare reimbursement levels or whether there is some other explanation for the differences. Mr. Bob Coury, Chief of Medical Services Division, explained that Medicare remains the gold standard in the nation for establishing the basis for reimbursement levels for professional provider fees. However, he noted that the differences in reimbursement levels among the various states can be attributed to the use of various conversion factors employed by these states. The states' conversion factors will vary because they have different access to care issues. BWC is attempting to ensure that its pricing enables appropriate access to care based on the Ohio environment.

Mr. Price noted that the stakeholder input received was valuable, and that BWC accepted four out of eleven recommendations. However, he indicated some concerns regarding the discussion concerning chiropractic care. While some areas of medicine will receive reimbursement increases, chiropractic care will not see any increase. Mr. Price asked what the rationale for that decision was. Mr. Johnson replied that although it was difficult to convey the rationale for reimbursement for chiropractic care in the condensed space of the report to the Board, the driving consideration for this area was access to care. Because there is no lack of access to chiropractic care, it was determined that the current conversion factor was sufficient. Mr. Price asked what data was compared in reaching this determination. Mr. Johnson replied that BWC used the conversion factor and calculated what reimbursement levels would be with the new rule as compared with

last year. By comparing the reimbursement levels between years, BWC would know whether there would be cause for concern.

Mr. Matesich thanked the BWC staff for the information provided in their responses, noting that the decision that the Board is being asked to make requires great understanding of many of the details. Mr. Coury indicated that BWC welcomes the incisive questions. This discussion leads to a better understanding of how BWC must be sensitive to the issue of providing sufficient reimbursement to providers that maintains quality access to medical care, while also maintaining sensitivity as to how these costs affect the rates that employers must pay. BWC must be able to demonstrate a reasonable basis for increases as well as for decreases. Therefore, BWC takes both increases and decreases to provider reimbursement rates very seriously.

Mr. Smith asked whether BWC had any data that showed the utilization rates for chiropractic care in Ohio as compared with other states' workers' compensation systems. He also asked whether BWC knows what portion of the chiropractic physicians' business is workers' compensation. Mr. Coury responded that a national study from Dartmouth had looked at some related issues concerning utilization of medical care. The study noted that the fee for service model and a saturation of providers invited higher utilization but not better outcomes. BWC, in collaboration with the Department of Administrative Services, has developed a provider performance metric that encourages providers to achieve better outcomes in return-to-work. However, this study did not provide the answers to the questions that Mr. Smith posed. Mr. Johnson noted that BWC will continue to evaluate its own data to determine if we can glean more cause and effect information.

Mr. Haffey noted that this discussion had provided much more clarity regarding the issue he described as a three legged stool. The right price must be established or the employer community might object. However, if the reimbursement amount to medical providers is not high enough, the injured workers might suffer as a result. Mr. Johnson agreed, noting the right balance must be struck. BWC is attempting to get the best medical providers to take part in this system, so that the injured workers can get effective treatment and return to work expeditiously. Mr. Harris noted his appreciation for the information provided by BWC on this matter. The questions by the Board members are necessary for them to gather the information they require to make sound decisions. Mr. Price also agreed that he was appreciative of all the information provided by BWC in this presentation.

Mr. Hummel moved that the Medical Services and Safety Committee recommend that the Bureau of Workers' Compensation Board of Directors approve the Administrator's recommendation to amend rule 4123-6-08 of the Administrative Code, "Bureau Fee Schedule," to adopt the provider fee schedule effective October 25, 2010. The motion consents to the Administrator amending rule 4123-6-08 and enacting Appendix A to the rule as presented here today. Mr. Pitts seconded, and the motion passed by a 5-0 vote.

## **B. For First Reading**

### **1. Transcutaneous Electrical Nerve Stimulators (TENS) and Neuromuscular Electrical Stimulators, Rule 4123-6-43**

Mr. Johnson presented the first reading of modifications to the rule regarding TENS units and other neuromuscular electrical stimulators. Mr. Johnson explained that a TENS unit is a pocket size portable electrical device that sends electrical signals to various body parts in order to treat pain. Last year, BWC spent approximately \$3.2 million on these devices, with 72% of that amount going towards supplies for the devices (e.g. batteries, electro-pads, etc.) Previously, providers had the responsibility of ensuring that the injured worker had all the supplies necessary to utilize the TENS unit. A review BWC conducted showed that often TENS unit providers were sending unnecessary supplies to the injured workers, which was driving up the cost of supplies. The rule was updated in 2009 as part of BWC's five year rule review, and modifications were made to address this issue. Specifically, the rule was modified so that the injured worker, rather than the provider, was responsible for ordering the supplies, to ensure that no unnecessary supplies were sent. However, this change to the rule has had some unintended consequences, resulting in increased delays for the injured worker in receiving his/her supplies. Because the rule change did not fully achieve the results BWC sought, BWC is now seeking further modification to address the burden that was unintentionally placed on the injured worker. BWC's modifications to the rule would require the Managed Care Organizations (MCOs) to determine regularly the supply needs of injured workers who have been prescribed TENS units. Information regarding these changes has been provided to stakeholders, and last week BWC met with the MCOs to obtain their feedback. As a result of this meeting, a clear consensus was reached regarding the purpose of the changes BWC seeks. Mr. Johnson stated that BWC believes these modifications to the rule provide increased flexibility, and will result in improved delivery of TENS supplies. He also noted that in the stakeholder feedback there was some comment regarding the efficacy of using TENS units. However, Mr. Johnson clarified that this is not part of the focus of this particular recommended change to the rule. These types of concerns are being addressed separately by BWC through consultation with its medical director.

Mr. Hummel asked for clarification regarding the timeframe in which \$3.2 million was expended on TENS units and supplies. Mr. Johnson replied that was the amount expended from July 1, 2009 through June 30, 2010. Mr. Hummel also asked whether supply needs vary by injured worker or whether that remained pretty consistent. Mr. Johnson stated that utilization of a TENS unit might vary among injured workers so the supply needs would also vary. Mr. Hummel noted that the frequency of claims are down, but severity is up; as a result, he asked whether there was an increased use of TENS units due to greater severity? Mr. Johnson stated that BWC does not know the answer to that at this time. Mr. Hummel then asked what would be the process if an injured worker and an MCO disagreed about the need for additional supplies. Mr. Johnson replied that he did not anticipate this being an issue, but in those cases the system has several options for handling the disagreement, including the MCO going to BWC for assistance in resolving the issue through BWC's MCO policy e-mail box.

Mr. Matesich inquired about the timeframe for BWC's review of the effectiveness and efficacy of TENS units. Mr. Johnson replied that BWC is continually reviewing its benefit package, but that some issues require more research than others. Because it will depend on the amount and type of information BWC collects, he was not sure when the review would be complete.

Ms. Falls noted that although this rule was amended only six months ago, it is positive that this committee is serving to facilitate the process of delivery of medical services by being responsive to problems that have arisen.

Mr. Caldwell asked what the process would be if a self insured employer and injured worker disagree on the need for additional TENS supplies. Mr. Johnson replied that BWC's Self Insured Department would be better able to address that question, but that he would look into that in order to address the question at a later point. Mr. Pitts noted that if an injured worker objects to a decision made by a self insured employer, including a decision regarding TENS supplies, the injured worker can file a motion with the Industrial Commission to have the disputed matter resolved.

Mr. Hummel then asked whether there has been enough time and data to see if the recently amended rule made effective this past February has had any impact. Mr. Johnson replied that there has not been enough time for that kind of determination, but that anecdotal information received by BWC has clearly shown that injured workers have been experiencing problems with the new rule.

## **DISCUSSION ITEMS**

### **1. Customer Services Division Report**

Tina Kilmeyer, Chief of Customer Services, presented the Customer Services Division Report. Ms. Kilmeyer first provided an overview of the various departments that comprise the Customer Services Division. She then discussed the Division's recent "You are the brand!" campaign, which is an initiative to increase the awareness of customer service skills that are needed by BWC's employees and is tied to the agency's goals. The campaign includes a series of activities designed to raise awareness of customer service, and will include training later this year. In addition, BWC has also produced a series of videos with characters played by BWC employees that highlight various customer service messages in each installment. Ms. Kilmeyer played one of the videos for the committee.

Ms. Kilmeyer then provided an update on BWC's Drug Free Safety Program. BWC has completed its training regarding this program for all internal staff as well as external parties. BWC also has been marketing this program, and has leveraged its various external partners to get the message out to the employer community. Thus far, BWC has received approximately 4,500 applicants. In September Ms. Kilmeyer indicated that additional analysis on applicants to the DFSP will be provided to the committee.

Next, Ms. Kilmeyer discussed some recent activity regarding BWC's medical repository. The medical repository is a collection of captured computer images of medical records for BWC's claim files. Previously these records had been indexed by an outside vendor. Recently BWC identified an opportunity to do a portion of this indexing by BWC employees, and arranged to do a pilot program to examine feasibility. BWC management worked with its affected labor union (OCSEA) to conduct the pilot, which was hugely successful. As a result of this successful pilot, BWC will be increasing its internal indexing capacity to 55% of total volume, which will result in a savings to BWC of \$550,000 a year.

Ms. Kiemeyer then discussed Medicare reporting requirements that have been mandated. Under federal law, BWC will soon be required to report its injured workers who are potentially eligible recipients of Medicare. Medicare will perform a cross-match to determine whether a coordination of benefits is necessary. There are stiff penalties that are imposed against entities that do not provide timely information to Medicare. BWC was one of the first payers to submit its cross match information to Medicare.

Ms. Kiemeyer also reported several initiatives for employer payroll reporting and premium payments. In June, BWC introduced an electronic invoice that will enable enrolled employers to review their invoice, report payroll information, and pay the invoice on-line. In addition the BWC has also updated the Interactive Voice Response (IVR) payment option to employers through the use of the touch pad telephone. Eighty percent of employers in Ohio will be eligible to utilize this option. Also, in order to handle increased call volume that occurs during February and August of each year when private employers report payroll and pay premium, BWC field staff will supplement existing contact center staff to ensure service levels and performance measures are retained.

Mr. Caldwell noted that the video BWC had produced on customer service was very well done. In addition, he stated that he was encouraged by the work being done on the medical repository program and BWC's willingness to work jointly with the bargaining unit.

Mr. Hummel asked if the marketing and roll out of the Drug Free Safety Program was typical for a BWC program. Ms. Kiemeyer replied that with the recent introduction of new employer programs BWC has taken advantage of a variety of marketing and communication strategies. Because of the compressed time frame of the recent roll out of the DFSP it was not typical and it required all hands to complete it in a very short time frame. Mr. Hummel then noted that BWC has consolidated some of its offices in the past few years. He asked whether BWC has received any feedback from its customers regarding these actions. Ms. Kiemeyer replied that because so much of BWC's business is now being conducted on-line, and because fewer customers are now visiting BWC's physical offices, BWC has not seen much impact for its customers from these office closures and consolidations.

Mr. Haffey asked if BWC has seen any positive results from the new Medicare reporting requirements. Ms. Kiemeyer replied that one positive result that has occurred is that BWC is now able to validate social security numbers of injured workers.

## **2. BWC and Injured Worker Amputee Rehabilitation Efforts**

Dr. Robert Balchick, BWC Chief Medical Officer, provided an update regarding BWC's efforts with respect to the rehabilitation of injured worker amputees. Recently, BWC sponsored a learning event regarding amputation care that provided continuing education for both nurses and physicians. This conference was a good opportunity to communicate to BWC staff, MCOs, and external medical providers about BWC's approach to providing care to amputees and new advances in the field. BWC's goal is not to restrict access to care, but to aid in determining which type of care is best. Jim Landon, Industrial Rehabilitation Nurse, provided further explanation of BWC's team approach to amputation care. The team approach includes providers from various disciplines, and

may include physicians with a specialization in physical medicine or orthopedic surgery; prosthetists; psychologists; occupational therapists; physical therapists; plastic surgeons; social workers; etc. A team of specialists is necessary to help injured workers who have suffered an amputation reenter life. Mr. Landon then showed a video of an injured worker who had suffered an amputation, but was able to reenter the job force. Mr. Smith asked how many amputations occur each year. Mr. Landon replied that BWC is currently managing approximately 1,700 active claims involving amputations, and there are roughly 18 to 21 workers who suffer amputations each year. The directors expressed appreciation for the information provided in this report and the video testimony that was played.

### **3. Committee Calendar**

Mr. Harris noted that next month there will be a Medical Services Division Report. In addition, there will be a second reading of the TNS Unit rule for August.

### **ADJOURNMENT**

Mr. Pitts moved to adjourn the meeting at 10:35 AM, seconded by Mr. Hummel. The meeting adjourned with a 6-0 unanimous roll call vote.