

# *Workers' Compensation Board*

## *Meeting Minutes*

July 23-24, 2015

**Thursday, July 23, 2015**

### **I. Call to order**

Acting Workers' Compensation Director Alan Ezzell, Chair of the Alaska Workers' Compensation Board, called the Board to order at 9:07 am on Thursday, July 23, 2015, in Anchorage, Alaska.

### **II. Invocation and Pledge of Allegiance**

### **III. Roll call**

Acting Director Ezzell conducted roll call. The following Board members were present:

|                |                  |                 |
|----------------|------------------|-----------------|
| Brad Austin    | Pamela Cline     | Chuck Collins   |
| Julie Duquette | Jacob Howdeshell | Linda Hutchings |
| David Kester   | Sarah Lefebvre   | Ron Nalikak     |
| Amy Steele     | Mark Talbert     | Rick Traini     |
| Pat Vollendorf | Robert Weel      | Lake Williams   |

Members Stacy Allen, Michael O'Connor, and Donna Phillips were absent. Quorum was established.

Acting Director Ezzell introduced Acting Chief of Adjudications Amanda Eklund.

### **IV. Agenda Approval**

A motion to adopt the agenda was made by member Hutchings, and seconded by member Nalikak. The agenda was adopted without objection. The agenda was limited to consideration for approval of regulations proposed by the Department of Labor and Workforce Development for a new medical fee schedule, electronic filing, electronic case records, and service and notice of determinations by first class mail.

### **V. Approval of Meeting Minutes**

A motion to adopt the minutes from the October 2-3, 2014 regular Board Meeting was made by member Hutchings and seconded by member Weel. The minutes were adopted without objection.

### **VI. Director's Report**

1. Progress on the workers' compensation system re-write, is currently at a standstill. Capital funds appropriated for ICERS have been fully expended. There remain several ICERS components that have not yet been developed, including the annual reporting function, and written business practices and procedures. A request for an additional 700K for FY16 was denied. IT

- proposed 300K for FY16 ICERS maintenance for ICERS; the division has budgeted 50K.
2. Acting Director Ezzell reviewed current division staffing.
  3. The division is or will be recruiting for the following vacant positions: WC Technician (Juneau), Office Assistant I (Anchorage); and a Hearing Officer I/II (Anchorage).
  4. Acting Director Ezzell provided an overview of the FY15 YTD and FY16 budget. The division transferred 100K from personnel service to the service line to cover year end obligations.
  5. The second independent medical examination (SIME) selection process has been completed. Workers' Compensation Officer Sue Reishus-O'Brien is gathering documentation process for the selected physicians, and the division will publish a bulletin with the specialists later this fall.

## **VII. New Business**

1. The 2016 workers' compensation hearing calendar was reviewed and unanimously approved.
2. Approval of new Board designees.
  - a. New designees include Margaret Scott and Matthew Slodowy promotions to (WC Hearing Officer II), William Wright (WC Officer I), Amanda Eklund serving as Acting Chief of Adjudication, and Janel Wright (WC Hearing Officer II)
  - b. Member Hutchings moved that the Board approve the amended list of Board designees, which was seconded by member Collins. There was no additional discussion. The motion passed unanimously.
3. Air ambulance fee schedule development was discussed. Acting Director Ezzell acknowledged the board is tasked with adopting an air ambulance fee schedule in HB316. Implementation of a fee schedule may be challenged because the Airline Deregulation Act of 1978 prohibits air ambulance rate regulation by states.
4. Amended 8 AAC 45.020(c), allowing filing of documents at any division office by mail, by facsimile, or electronic mail. Member Hutchings moved to approve the amendment to 8 AAC 45.020(c). Member Weel seconded the motion. The motion passed unanimously.
5. Amended 8 AAC 45.020, to provide for electronic filing of certain reports and documents in compliance with Department of Labor and Workforce Development Commissioner's Order. Member Hutchings moved to approve the amendment to 8 AAC 45.020. Member Kester seconded the motion. The motion passed unanimously.
6. Amended 8 AAC 45.032, allowing the division to establish an electronic board file in a format prescribed by the director. Member Hutchings moved to approve the amendment to 8 AAC 45.032. Member Nalikak seconded the motion. The motion passed unanimously.
7. Amended 8 AAC 45.060(b), allowing a party to file a document other than the annual report by mail or electronic filing in compliance with the Department

of Labor and Workforce Development Commissioner's Order No. 001, dated April 23, 2015. Member Hutchings moved to approve the amendment 8 AAC 45.060(b). Member Weel seconded the motion. The motion passed unanimously.

8. Member Hutchings moved to amend 8 AAC 45.550(c) to allow service of a written reemployment plan's approval or denial to the parties by first class mail deleting the requirement for certified mail. Motion seconded by Member Kester. The motion passed unanimously.
9. Amended 8 AAC 45.550(d). Reemployment Benefit Administrator's (RBA) decisions shall be served by first class instead of certified mail. Member Hutchings moved to approve the amendment to 8 AAC 45.550(d). Motion seconded by Member Kester. The motion passed unanimously.
10. Amended 8 AAC 45.530(a). RBA eligibility determinations will be served by first class mail, not certified mail. Member Collins moved to approve the amendment to 8 AAC 45.530(a). Motion seconded by Member Austin. The motion passed with one vote against by Member Cline.

*Lunch Break 11:59 pm-1:35 p.m.*

11. Introduction of Optum. Optum is a healthcare information company. It will be providing expert advice to the board and division. The company has assisted several other states in developing resource-based relative value scale (RBRVS) fee schedules.
  - a. Eric Anderson reviewed Optum's inpatient analysis.
    - i. Optum's analysis was based on NCCI's 2012 and 2013 data, CMS FY13 relative weight data, and CMS FY15 base rates.
    - ii. The 2013 NCCI data calculates to a base rate of \$21,449.74, which is 239.8% of average CMS FY15 base rate of \$8,944.40 for the nine Alaska acute care hospitals. It was noted that the NCCI data does not identify hospitals, so a comparison can only be made to the CMS average base rate.
    - iii. The current worker's compensation fee schedule (MAR) is based on a daily per diem rate, which is \$19,659/day for medical/surgical, and \$32,654/day for ICU/CCU care.
    - iv. Critical access hospitals are exempt from fee schedule regulation under HB316.
    - v. There are six general acute care hospitals in Alaska: Alaska Regional, Bartlett Regional, Central Peninsula General, Fairbanks Memorial, Providence Alaska, and Mat-Su Regional.
    - vi. Outpatient fees are based on common procedure terminology (CPT) codes, not diagnostic related groups.
  - b. Carla Gee reviewed Optum's analysis of medical data
    - i. Optum's analysis compares NCCI's billed data against Fair Health's (FH) billed data. The budget neutral fee schedule relative value (RV) conversion comes in between the 75<sup>th</sup> and 80<sup>th</sup> percentile of FH data values.

- ii. Optum pointed out that since Alaska's existing fee schedule is based on CPT codes from 2010, there are many new codes in the Center for Medicare Services (CMS) RV data have no utilization values.
- iii. Optum's spreadsheet includes both RVs for non-facility practice expense and facility practice expense. The RVs for facility practices are lower on the assumption that facility costs are included in facility billings. The existing workers' compensation fee schedule uses a single professional services fee schedule. It does not have separate pricing for professional services provided in facility and non-facility settings.

*Break 3:02pm-3:16pm*

- 12. Amended 8 AAC 45.900 to include a definition of "provider". Member Hutchings moved to approve the amendment of 8 AAC 45.900. Member Kester seconded the motion. The motion passed unanimously.
- 13. Motion to adjourn was made by Member Hutchings at 4:59pm. Member Talbert seconded the motion. The motion passed unanimously.

*Meeting Adjourned 5:01 pm*

**Friday, July 24, 2015**

**I. Call to Order**

Acting Director Ezzell resumed the Alaska Workers' Compensation Board meeting at 9:05 am on Friday, July 24, 2015, in Anchorage, Alaska. The following Board members were present:

|                 |                |                                  |
|-----------------|----------------|----------------------------------|
| Stacy Allen     | Brad Austin    | Pamela Cline                     |
| Chuck Collins   | Julie Duquette | Jacob Howdeshell *9:40am arrival |
| Linda Hutchings | David Kester   | Sarah Lefebvre                   |
| Ron Nalikak     | Amy Steele     | Mark Talbert                     |
| Rick Traini     | Pat Vollendorf | Lake Williams                    |

Members Robert Weel, Michael O'Connor, and Donna Phillips were absent. Quorum was established.

Acting Director Ezzell acknowledged Commissioner Drygas' arrival. Board members introduced themselves to the Commissioner, identifying their district and affiliation. The Commissioner responded to several questions.

*Break 10:32am-10:45am*

**II. New Business (continued)**

14. Amended 8 AAC 45.083, which provides fees for medical treatment and services. Member Hutchings moved to approve the amendment to 8 AAC 45.083. Member Weel seconded the motion. The chair opened the floor for discussion to approve the following conversion factors:

- a. Physician Fee Schedule
  - i. Evaluation & Management - 80
  - ii. Medicine - 80
  - iii. Surgery - 205
  - iv. Radiology - 257
  - v. Laboratory - 142
  - vi. Pathology & Clinical Lab - CMS x 6.33
  - vii. Durable Medical Equipment - CMS x 1.84
  - viii. ASP - CMS x 3.375
  - ix. Utilize separate CMS physician fee schedule relative values for facilities and non-facilities
  
- b. Outpatient - \$221.79
  - i. Outpatient based on CMS Outpatient Prospective Payment System
  - ii. ASC Payments at 95% Outpatient allowance
  - iii. Implants at invoice plus 10%
  - iv. Adopt state rule for status codes C, E, & P

- c. Inpatient Acute Care (Based on 13% case outlier and 7% implant outlier)
  - i. Inpatient based on Medicare Severity Diagnosis Related Groups (MS-DRG)
  - ii. (CF) adjustment for disproportionate share, case outlier, and implants
  - iii. On outlier cases, implants backed out of MS-DRG and paid at invoice plus 10%
  - iv. Providence Alaska Medical Center \$17,085.40
  - v. Mat-Su Regional Medical Center \$15,326.64
  - vi. Bartlett Regional Hospital \$14,615.18
  - vii. Fairbanks Memorial Hospital \$15,972.59
  - viii. Alaska Regional Hospital \$15,413.63
  - ix. Yukon Kuskokwim Delta Regional Hospital \$28,315.11
  - x. Central Peninsula General Hospital \$14,385.49
  - xi. Alaska Native Medical Center \$22,681.05
  - xii. Mt. Edgecumbe Hospital \$19,621.32
- d. Anesthesia \$121.82, based on the Relative Value Guide, produced by the American Society of Anesthesiologists.
- e. Prescription Drugs
  - i. Manufacturer (MFG) average wholesale price (AWP) plus \$5 dispensing fee for brand or \$10 dispensing fee for generics
  - ii. For compound drugs, limited to medical necessity, MFG AWP for each drug included in the compound (listed separately by NDC) plus a \$10 compounding fee.

Member Traini called for the question. The motion to approve 8 AAC 45.083 passed on a 12-2 vote, with members Allen, Austin, Cline, Howdeshell, Hutchings, Kester, Lefebvre, Nalikak, Steele, Talbet, Traini, and Vollendorf voting in favor, members Duquette and Williams voting against, and member Collins abstaining.

- 15. Amended 8 AAC 45.082(m) establishing an effective date for the workers' compensation medical fee schedule. Member Hutchings moved to approve the amendment 8 AAC 45.082(m). Member Traini seconded the motion. The motion passed unanimously.
- 16. Amended 8 AAC 45.082(l)(2) definition of provider repealed. Member Hutchings moved to approve the amendment 8 AAC 45.082(l)(2). Member Nalikak seconded the motion. The motion passed unanimously.
- 17. Board discussed their desire to have the Medical Service Review Committee members available at the next board meeting. Board also requested the Commissioner be available.
- 18. Motion to adjourn was made by Member Traini at 11:49am. Member Austin seconded the motion. The motion passed unanimously.

*Meeting Adjourned 11:49 am*