

INDUSTRIAL COMMISSION OF ARIZONA

PUBLIC HEARING

REPORTER'S TRANSCRIPT OF TELECONFERENCE PROCEEDINGS

Staff Proposal and Request for Public Comment Regarding
2020/2021 Arizona Physicians' and Pharmaceutical Fee Schedule

Industrial Commission of Arizona
Phoenix, Arizona
June 25, 2020
1:00 p.m.

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INDUSTRIAL COMMISSION OF ARIZONA

1 REPORTER'S TRANSCRIPT OF TELECONFERENCE OPENING REMARKS
2 AND PUBLIC HEARING COMMENTS, 2020/2021 ARIZONA PHYSICIANS' AND
3 PHARMACEUTICAL FEE SCHEDULE PUBLIC HEARING, was reported by
4 Teresa A. Watson, Registered Merit Reporter and a Certified
5 Reporter in and for the State of Arizona.

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7 STAFF PARTICIPANTS:

8 Dale Schultz, Chairman
9 Joseph Hennelly, Vice Chair
10 Scott LeMarr, Commissioner
11 Steven Krenznel, Commissioner
12 James Ashley, Director
13 Gaetano Testini, Chief Counsel
14 Jason Porter, Deputy Director
15 Charles Carpenter, MRO Manager
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PUBLIC COMMENTS

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SPEAKER: PAGE:
Greg Gilbert..... 9

P R O C E E D I N G S

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3 CHAIRMAN SCHULTZ: Our first item of business
4 today is the public hearing regarding the Arizona Physicians'
5 and Pharmaceutical Fee Schedule, and let's start by reminding
6 everyone this public hearing is being held to give members of
7 the public and Commission stakeholders an opportunity to comment
8 on staff proposals regarding the 2020/2021 Arizona Physicians'
9 and Pharmaceutical Fee Schedule and to make additional
10 recommendations for changes to the Fee Schedule. The Staff
11 Proposal has been posted on the Commission's website for the
12 last month.

13 To help with background noise, your phones have
14 been put on mute. As I said, star six will get you off of mute.
15 If you wish to make a comment, announce yourself and who you are
16 representing.

17 Charles Carpenter, the Manager of the Medical
18 Resource Office, will provide a brief overview of the staff
19 proposal. Charles.

20 MR. CARPENTER: Good afternoon, Chairman,
21 Commissioners, Director Ashley, colleagues and guests. Thank
22 you for the time to present the Staff Proposal for the 2020/2021
23 Physicians' and Pharmaceutical Fee Schedule.

24 First, the staff recommends the updated service
25 codes, relative value units and reimbursement values as

1 presented in the Excel tables accompanying the published
2 proposal. The methodology used in computing reimbursement
3 values has not changed from previous years and is outlined
4 (audio interruption). Staff recommends maintaining the RBRVS
5 conversion factors used in the 2019/2020 Fee Schedule. The
6 proposed 2020/2021 Fee Schedule will continue to use CMS's
7 surgical global periods, assign RVUs to consultation services,
8 delineate codes that are unique to Arizona, and not incorporate
9 a geographical adjustment factor. The proposed Fee Schedule
10 codes were calculated using a stop loss cap to service codes
11 whose reimbursement values decreased by more than 25 percent and
12 a stop gain cap to any service codes whose reimbursement values
13 saw an increase of more than 17 and a half percent.

14 Second, the proposed Fee Schedule continues to
15 designate Medi-Span as the source to determine average wholesale
16 price and determine reimbursement values for pharmaceutical
17 products.

18 Third, changes are also proposed throughout the
19 2020/2021 Fee Schedule to clarify the definition and usage of
20 the terms "physician" and "healthcare provider." These changes
21 are intended to conform with the language used by CMS, which
22 defines physicians as those healthcare providers who can provide
23 evaluation and management services according to their scope of
24 practice and Arizona law.

25 Fourth, staff proposes several revisions to the

1 introduction section, including the addition of statutory
2 language to reinforce the timelines and expectations established
3 by Arizona Revised Statute 23-1062.01, the addition of a
4 requirement that payers provide proof of valid contracts when
5 contractual fees disputes with healthcare providers arise, and
6 the addition of clarification that a current invoice for
7 materials and supplies is one which is dated within one year of
8 use.

9 The addition of the language requiring the payers
10 to provide proof of valid contracts is intended to expedite
11 resolution of disputes where a payer contends that the provider
12 is bound to specific fees based on a contractual agreement with
13 the payers. The clarification of current invoice is intended to
14 prevent DME providers from billing for goods based on
15 non-current purchases orders which may not reflect actual costs
16 or values of the goods.

17 Fifth, staff proposes including of four HCPCS
18 codes that were adopted by the Commission in March 2020 in
19 response to the spread of COVID-19. Two of the codes are for
20 virtual check-ins by physicians, and they represent changes to
21 the Evaluation and Management section. The other two codes are
22 used for lab testing to detect a COVID-19 infection and are
23 found in the Pathology and Laboratory section.

24 Finally, staff proposes clarification to the
25 description of Arizona Service Code AZ099-005. This billing

1 code is used when healthcare providers spend additional time
2 completing workers' compensation insurance forms. During the
3 course of typical treatment, each respective healthcare provider
4 is expected to properly document their work according to the
5 laws governing their respective practices. Exams, re-exams,
6 evaluations and consultations are currently paid at a rate to
7 compensate the healthcare provider for their time to document
8 patient encounters. Arizona Service Code AZ099-005, however,
9 was intended to be used in cases when additional paperwork is
10 required either by the Commission, applicable payer, or third-
11 party administrator, not as a means of increasing revenue based
12 on standard medical documentation.

13 Staff recommends the clarified language presented
14 in the proposal to ensure that the code can only be used when an
15 additional form is either requested by a payer or required by
16 the Commission. The Medical Resource Office appreciates your
17 time considering this proposal, and I am happy to take any
18 questions from the Commission.

19 CHAIRMAN SCHULTZ: Thank you, Charles.

20 Do any of the commissioners have any questions
21 for Charles over the proposed changes to the Fee Schedule?

22 Hearing none, I will now welcome our friends on
23 the phone to present oral comments and recommendations regarding
24 the 2020/2021 Fee Schedule. The Fee Schedule's been posted on
25 our website for a month, and I don't show that we've had anyone

1 who has requested an opportunity to speak, and so I now would
2 like anyone who wishes to speak, please, just star six, unmute
3 yourself, and you can have up to five minutes to speak, to make
4 comments, to make recommendations.

5 At the beginning of your comment, for the record
6 and for the court reporter, please state your name, spell it and
7 state who you represent. At the conclusion of your comments,
8 the commissioners and staff may ask you questions.

9 In the interest of time, please do not repeat
10 what other speakers have stated. If you agree with what has
11 been said, simply state as such.

12 Although the public hearing will end when oral
13 comments have concluded, written comments will be accepted
14 through the close of business on Thursday, July 2nd, 2020. Once
15 the record is closed, the Medical Resource Office and Commission
16 will carefully consider all comments and available information
17 and data prior to taking formal action related to the Fee
18 Schedule. With that, I offer the opportunity for anyone who
19 wishes to make comments or recommendation, please do so now.
20 Remember, star six, unmute yourself.

21 Do we have anyone who wishes to make comments or
22 recommendations concerning the Fee Schedule?

23 DIRECTOR ASHLEY: Mr. Chairman.

24 CHAIRMAN SCHULTZ: Yes.

25 DIRECTOR ASHLEY: While we're waiting for anyone

1 on the line that would like to make a comment, I'd just like to
2 note that over the course of the public comment period, over the
3 course of the last month, we have just received one written
4 comment that is posted on our Medical Resource Office page, and
5 that is from the Arizona Counties Insurance Pool.

6 CHAIRMAN SCHULTZ: Thank you, James.

7 MR. GILBERT: Hi. This is Greg Gilbert. Can you
8 guys hear me?

9 CHAIRMAN SCHULTZ: Yes, Greg.

10 MR. GILBERT: Greg Gilbert with Concentra. I do
11 have a few comments and just a bit of history here that will
12 probably back up why I'm asking the question.

13 I was involved, gee whiz, going back to 2013 and
14 2014 with the original committee that was put together to look
15 at then we called ourselves the Arizona Fee Schedule Methodology
16 Committee that was put together to look at a change in the Fee
17 Schedule process for Arizona. And in fact, we developed a
18 letter that was dated January the 14th that was sent to the then
19 commissioner at the time that was giving recommendations that
20 ended up being really part of the original RFP process in the
21 original study that came out back in 2016, in April.

22 And as part of both the original letter that the
23 Fee Schedule Committee put together and even a discussion in
24 that original study that was proposed, there was discussions
25 about the use of a -- some type of inflationary increase factor

1 associated with the conversion factor and the annual increase.
2 So, in essence, annual update to the relative values, which we
3 have. Multiple conversion factors was the recommendation, which
4 was what we have, and then there was a discussion about each
5 year looking at an annual inflator, which is pretty much exactly
6 what happens with the Medicare process and many other states
7 that use this same basis.

8 And so inherently in our discussions, we had
9 several caveats, and one of them was looking at either like a
10 Medicare Economic Index, otherwise known as MEI, which a lot of
11 states today, work comp. states use today, or some other Arizona
12 inflationary that was decided.

13 And what I've noticed over the last couple years
14 of our updates here is it looks like everything is being
15 followed with the exception of looking at the conversion factor.
16 The reason why that was important is that, number one, it mimics
17 the process that happens in both with CMS and with other states,
18 but one of the ways we were able to get consensus on the
19 committee, especially from the medical community, was we were
20 going to have a fee schedule process that was updated annually,
21 and not every four years, and we were trying to mitigate large
22 swings in terms of either increases or decreases, which is what
23 we had seen prior to this change.

24 And so with that, we talked about the Medicare
25 Economic Index, which is typically 1 percent or less every year

1 in terms of an inflation factor applied to a conversion factor,
2 which we thought was reasonable given that, you know, most
3 physician practices see those type of increases each year just
4 at a minimum in terms of staff increases.

5 Well, I say all of that because when we did the
6 calculation of this year's Fee Schedule -- in the previous year
7 it was pretty much flat, which means there really wasn't any
8 material increase or decrease. When we calculated this year's
9 Fee Schedule, we came up with an actual decrease, about a 1
10 percent decrease in overall fees, and I bring that up just to
11 let you know the history of what we were thinking when we went
12 through this process of the update is that we wanted some type
13 of small inflationary factor to help medical providers manage
14 their yearly increases in their cost of doing business.

15 And so my long-winded commentary was to come up
16 with a question of is that something that is going to be
17 considered in the future in terms of these updates? And I would
18 ask that it be considered even this year of some type of
19 inflationary factor to be applied to the conversion factor,
20 along with the updated relative values.

21 And then the final thing is that we did notice
22 something a little strange, and I'm not sure -- we're going to
23 go back and double-check it, but you know, we have some
24 states -- well, we have lots of states that use the same
25 methodology that Arizona uses, and in those states we were

1 seeing slight increases based on the relative value changes from
2 2019 to 2020, plus a conversion factor change, and -- even
3 without a conversion factor change, we saw a general slight
4 increase in our codes, and none of the codes hit the cap on
5 either side.

6 And what we found with Arizona when we looked at
7 that was, instead of a 1 percent decrease, if you just compared
8 the relative value changes, which theoretically is what Arizona
9 did, unless I don't know something, which is my question, you
10 would have seen an actual about 1.44 percent increase in the
11 codes that we use as opposed to a decrease, and so our question
12 is, is did the Commission go in and look at individual codes and
13 change those? And again, I know I'm saying none of these codes
14 saw any mirror to the cap increase or decrease limits that you
15 have in terms of changes from last year relative values to this
16 year relative values. So if you have a stagnant conversion
17 factor, which means that has not changed, and the only thing
18 that changed was the relative value from 2019 to 2020, the
19 question is: What happened? And why are we seeing a decrease
20 versus an increase?

21 I'll shut up now and answer any questions if
22 there are any.

23 CHAIRMAN SCHULTZ: Thank you, Greg.

24 Do any of the commissioners have any questions
25 for Mr. Gilbert?

1 If not, I would like to at least briefly answer
2 some of your questions. So first is in terms of, let's say,
3 looking at individual codes. We do, but generally we only spend
4 time on things that appear to be outliers. I will also tell you
5 that overall, we look very carefully and do a significant
6 comparison with other medical payer systems to look at where
7 workers' compensation is relative to other payers, because the
8 Commission is very interested in not only keeping us
9 competitive, but as we've taken actions in the past to include
10 provisions for paperwork, which we knew -- which we've heard for
11 many, many years was a detriment to providers participating in
12 workers' compensation. So we very much do a comparison to what
13 other payers are paying, and then we also look very closely at
14 how our reimbursement compares to the reimbursement in other
15 states.

16 But most of all, Greg, you know, you have until
17 the 2nd to submit written comments, and I would very much
18 appreciate it if you would submit that information in -- you
19 know, in writing so that then we can take a look at it, because
20 I'll tell you, I'm terrible with taking notes. I probably
21 didn't get down correctly what your issues were and the amount.
22 So please submit it to us, because I will tell you that the
23 overriding desire of the Industrial Commission is to make
24 certain that providers are compensated fairly for the work
25 they're doing so that injured workers in the state of Arizona

1 can expect to be treated by the best and to not get short-
2 tripped as compared to other patients in the offices of our
3 providers.

4 So thank you very much for taking us down history
5 lane a bit, Greg, also. That was an interesting time, and we
6 did very much appreciate the work of the group in helping us to
7 determine how we would restructure the medical Fee Schedule.

8 So do any of the commissioners have any other
9 comments or questions of Mr. Gilbert?

10 James or Charles, any comments?

11 Otherwise, I'll ask for anyone else on the phone
12 who is interested in making comments or offer recommendation.
13 Please do star six. Star six, unmute yourself, announce
14 yourself, and let us hear what you have to say.

15 Okay. And once again, please remember that the
16 -- we will accept written comments through the close of business
17 on Thursday, July 2, 2020. Once the record is closed, we will
18 then carefully review in the Medical Review Office and the
19 Commission all of those comments and recommendations and
20 suggestions that are received. So please do file any written
21 comments you might have before that July -- close of business on
22 July 2nd. Thank you.

23 If no one else has any further input to offer,
24 I'd like to close this public hearing on the Arizona Physicians'
25 and Pharmaceutical Fee Schedule and move to the next item of

1 business on our Commission agenda.

2 (End of public comments.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings had upon the foregoing hearing are contained in the shorthand record made by me thereof, and that the foregoing 15 pages constitute a full, true and correct transcript of said shorthand record; all done to the best of my skill and ability.

DATE at Phoenix, Arizona the 7th day of July 2020.

/s/ Teresa A. Watson
Teresa A. Watson, RMR
Certified Court Reporter
Certificate No. 50876