

INDUSTRIAL COMMISSION OF ARIZONA
SUPPLEMENTAL PUBLIC HEARING

Reporter's Transcript of Teleconference Proceedings

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

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

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8 Dale Schultz, Chairman
9 Joseph Hennelly, Vice Chair
10 Steven Krenzel, Commissioner
11 James Ashley, Director
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13 Trevor Laky, PIO and Legislative Affairs
14 Jason Porter, Deputy Director
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PUBLIC COMMENTS

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SUPPLEMENTAL PUBLIC HEARING PROCEEDINGS

MS. DIMAS: Good afternoon. It's 1:00.
If you'd like to start, Chairman.

CHAIRMAN SCHULTZ: Thank you, Kara.
My name is Dale Schultz. And I'm Chairman of
the Commission, and the first thing I'd like to do is
do a roll call to find out who is attending on the
phone today.

Vice Chair Joe Hennelly?

VICE CHAIR HENNELLY: I am here,
Chairman.

CHAIRMAN SCHULTZ: Great. Thank you,
Joe.

Commissioner Scott LeMarr?

Commissioner Steve Krenznel?

COMMISSIONER KRENZEL: I'm here.

CHAIRMAN SCHULTZ: Great. Thanks,
Steve.

And now staff, James Ashley?

DIRECTOR ASHLEY: Good afternoon,
Chairman, and everyone.

CHAIRMAN SCHULTZ: Hi.

Guy Testini?

1 MR. TESTINI: Good afternoon.

2 CHAIRMAN SCHULTZ: Hi, Guy.

3 Trevor Laky?

4 MR. LAKY: Good afternoon, Chairman.

5 CHAIRMAN SCHULTZ: Hi, Trevor.

6 Jason Porter?

7 MR. PORTER: Good afternoon.

8 CHAIRMAN SCHULTZ: Hi, Jason.

9 Charles Carpenter?

10 MR. CARPENTER: Good afternoon.

11 CHAIRMAN SCHULTZ: Hi, Charles.

12 Renee Englen?

13 And, of course, Kara.

14 We also have a court reporter today. Dorothy
15 Schulte, are you there?

16 MS. ENGLEN: Renee Englen is here.

17 CHAIRMAN SCHULTZ: Okay. Hi, Renee.

18 COURT REPORTER: And Dorothy Schulte,
19 the court reporter is here.

20 CHAIRMAN SCHULTZ: Great. Thank you.
21 Hi, Dorothy.

22 And we also have some folks who've requested
23 to speak, Greg Gilbert.

24 Greg, star 6 to unmute yourself, please.

25 Well, we'll check back with Greg.

1 Chad Snow?

2 MR. GILBERT: Hey, this is Greg. Sorry
3 about that. I'm off mute. I'm good.

4 CHAIRMAN SCHULTZ: Okay, Greg. Thank
5 you.

6 Chad Snow?

7 Well, we'll check back and see if Chad joins
8 us later.

9 Deb Baker?

10 MS. BAKER: Good afternoon. I'm here.

11 CHAIRMAN SCHULTZ: Hi, Deb.

12 Now, I'd like anyone else who's on the line
13 who wishes to speak or who is just joining us to listen
14 in to please identify themselves. You need to do star
15 6 to unmute yourself, then give us your name and who
16 you represent.

17 MR. VOGLER: Gale Vogler with
18 CopperPoint Insurance is on the line.

19 CHAIRMAN SCHULTZ: Okay. Thank you.

20 MS. MILLER: Keri Miller with Valley
21 Schools Workers' Compensation Group.

22 CHAIRMAN SCHULTZ: Would you say it
23 again, please, Keri?

24 MS. MILLER: Keri Miller with Valley
25 Schools Workers' Compensation Group.

1 CHAIRMAN SCHULTZ: Hi, Keri.

2 MS. MILLER: Hi.

3 MR. BARRATT: Brett Barratt, NCCI.

4 CHAIRMAN SCHULTZ: Great. Thank you.
5 Good to have you on the call.

6 Anyone else?

7 MR. PARKER: David Parker, self.

8 CHAIRMAN SCHULTZ: Hi, Dave. How are
9 you?

10 MR. PARKER: Doing very well. Thank
11 you, Mr. Chairman.

12 CHAIRMAN SCHULTZ: Good. Thank you.

13 Anyone else?

14 MS. HERNANDEZ: This is Isabel Hernandez
15 with Healthsystem.

16 CHAIRMAN SCHULTZ: Hi, Isabel. Thank
17 you for joining us today.

18 Anyone else?

19 MR. TRIBOUT: This is Kevin Tribout with
20 Optum. Thank you.

21 CHAIRMAN SCHULTZ: Hi, Kevin.

22 Anyone else?

23 Okay. Before we take testimony, we'll check
24 back again to see if anyone else has joined us.

25 MS. EVERLITH: Chairman?

1 CHAIRMAN SCHULTZ: Yes?

2 MS. EVERLITH: This is Cynthia Everlith
3 from ESI Healthcare.

4 CHAIRMAN SCHULTZ: Hi, Cynthia.

5 MS. EVERLITH: Hi.

6 CHAIRMAN SCHULTZ: Anyone else? Star 6
7 to unmute yourself.

8 Okay. Let's go ahead and get started.

9 This supplemental public hearing is being
10 held to give members of the public and Commission
11 stakeholders an opportunity to comment on the Amended
12 Staff Proposal regarding the 2020/2021 Arizona
13 Physicians' and Pharmaceutical Fee Schedule and to make
14 additional recommendations for changes to the Fee
15 Schedule.

16 On May 22nd, the Commission posted the
17 initial Staff Proposal, and a public hearing was held
18 on June 25th, 2020. Based on public comments received,
19 the Staff Proposal was amended and was reposted for
20 additional comment and a supplemental public hearing.
21 The Amended Staff Proposal has been posted on the
22 Commission's website since July 17.

23 To help with background noise, your phones
24 have been put on mute.

25 Charles Carpenter, the Manager of the Medical

1 Resource Office, will provide a brief overview of the
2 Amended Staff Proposal.

3 Charles.

4 MR. CARPENTER: Thank you, and good
5 afternoon, Mr. Chairman, Commissioners, Director
6 Ashley, colleagues, and guests.

7 Thanks for the time to present the Amended
8 Staff Proposal for the 2020/2021 Physicians' and
9 Pharmaceutical Fee Schedule.

10 The Medical Resource Office originally
11 presented the 2020/2021 Staff Proposal on June 25th.
12 And today we do have an Amended Proposal:

13 The Medical Resource Office references the
14 2020 Medicare Physician Fee Schedule; OPTUM 360's 2020
15 publication, The Essential RBRVS; Office of Workers'
16 Compensation Fee Schedule, effective October 1st, 2019;
17 the 2020 Anesthesia Base Units, as listed in CPT-4;
18 2020 Clinical Diagnostic Laboratory Fee Schedule; and
19 Physicians as Assistants at Surgery: 2018 update.

20 Staff recommends the updated service codes,
21 relative value units and reimbursement values as
22 presented in the Amended Excel tables accompanying the
23 published proposal. The methodology in computing
24 reimbursement values has not changed from previous
25 years.

1 Staff recommends maintaining the RBRVS
2 conversion factors from the 2019/2020 Fee Schedule.
3 And the proposed Fee Schedule continues to use CMS's
4 surgical global periods, assign RVUs to consultation
5 services, delineate codes that are unique to Arizona,
6 and not incorporate a geographical adjustment factor.

7 The proposed Fee Schedule continues to
8 designate Medi-Span as the source to determine Average
9 Wholesale Price and determine reimbursement values for
10 pharmaceutical products.

11 Staff evaluated changes to the 2020 Medicare
12 Physician Fee Schedule and the 2020/2021 proposal is
13 intended to conform with changes from previous
14 editions.

15 Changes were made throughout the 2020/2021
16 Fee Schedule to clarify the language or to clarify the
17 definition and usage of the terms "physician" and
18 "healthcare provider". This change is intended to
19 conform with the language used by CMS, which defines
20 "physicians" as those healthcare providers who can
21 provide Evaluation and Management services according to
22 their scope of practice and Arizona law.

23 The Introduction section contains additional
24 updates, including the addition of statutory language
25 to reinforce the timelines and expectations established

1 by Arizona Revised Statute 23-1062.01, which requires
2 payers to provide proof of valid contracts when
3 questions about negotiated fees with healthcare
4 providers arise, and clarifying that a current invoice
5 for materials and supplies is one which is dated within
6 one year of use.

7 Staff proposes the inclusion of four HCPCS
8 codes which were adopted by the Commission in March as
9 a response to the spread of COVID-19. Two of the codes
10 are for Virtual Check-ins by physicians, and they
11 represent changes to the Evaluation and Management
12 Section. The other two codes are used for lab testing
13 to detect a COVID-19 infection and are found in the
14 Pathology and Laboratory Section.

15 A proposed change to the 2020/2021 Fee
16 Schedule is intended to address questions and concerns
17 regarding Code AZ099-005. This billing code is used
18 when healthcare providers spend additional time
19 completing workers' compensation insurance forms.

20 During the course of typical treatment, each
21 respective healthcare provider is expected to properly
22 document their work according to the laws governing
23 their respective practices.

24 Exams, re-exams, evaluations, and
25 consultations are currently paid at a rate to

1 compensate the healthcare provider for their time to
2 document patient encounters. Code AZ099-005 is
3 intended only in cases when additional paperwork is
4 required either by the Commission, applicable payer, or
5 third-party administrator.

6 In addition to public comments made during
7 the June 25th hearing, the Commission received four
8 written comments. They have been posted to the MRO
9 webpage. And based on those public comments, the
10 original staff proposal was amended and reposted for
11 additional written comment and a supplemental public
12 hearing, which we're here doing today.

13 So the only change to the content of the
14 original proposal is the removal of the Stop Gain and
15 an adjustment of the Stop Loss percentage from
16 25 percent, which was used in the 2019/2020 Fee
17 Schedule, to 50 percent.

18 The removal of the Stop Gain will ensure that
19 reimbursement values for applicable codes will be based
20 solely on the updated RVUs and the corresponding
21 conversion factor -- without setting an artificial
22 ceiling on the reimbursement value of any codes whose
23 value under the RBRVS system is higher than the values
24 of the same codes before the Commission transitioned to
25 the RBRVS model.

1 The modification of the Stop Loss from 25
2 percent to 50 percent is proposed to move the
3 Commission closer to a full adoption of the RBRVS
4 approach, while at the same time we continue to
5 gradually reduce the reimbursement value of certain
6 codes whose value under the RBRVS approach is
7 significantly less than the reimbursement value of the
8 same code before the Commission transitioned to the
9 RBRVS model.

10 The Amended Staff Proposal includes two other
11 additions. The first addition is the proposed adoption
12 of a standard for time-based services. The proposed
13 language is found in the Physical Medicine Guidelines
14 of the Fee Schedule and establishes that the -- that
15 the CMS Guidelines be used when billing and reimbursing
16 time-based services.

17 Adopting this standard ensures uniformity in
18 the reimbursement of time-based services. Second, the
19 Amended Staff Proposal includes some proposed
20 amendments to the Pharmaceutical Fee Schedule
21 Guidelines. The intent of the amendments is to clarify
22 the definitions of a "pharmacy accessible to the
23 general public" and a "pharmacy not accessible to the
24 general public" and to correct an inadvertent omission
25 in Section VII(A)(1).

1 The proposed amendments also include a new,
2 narrow exception to the general rule that would allow a
3 pharmacy not accessible to the general public to
4 dispense and receive payment for medications that are
5 dispensed to an injured worker only during a
6 compensability dispute that ultimately resolves in
7 favor of the injured worker.

8 This new exception will make it easier for
9 injured workers' whose claims have been denied to
10 receive prescription medication services during the
11 period of time in which they are protesting the denial
12 of their claim.

13 So the Medical Resource Office -- we
14 appreciate the time of the Commission in consideration
15 of the Amended Staff Proposal.

16 CHAIRMAN SCHULTZ: Thank you, Charles.

17 We now welcome you to present your oral
18 arguments and recommendations regarding the Amended
19 Staff Proposal on the 2020/2021 Fee Schedule. We will
20 start with a list of people that have already requested
21 to speak, per the instructions included in the Notice
22 of Hearing posted on July 17. Others wishing to speak
23 will then also be given an opportunity.

24 When your name is announced, press star 6 to
25 unmute yourself. You will have five minutes to speak.

1 At the beginning of the comments, for the record and
2 the court reporter who is also on this call, please
3 state your name and spell it. Then state who you
4 represent.

5 At the conclusion of your comments, the
6 Commissioners or staff may ask you questions. In the
7 interest of time, you do not need to repeat what other
8 speakers have stated. If you agree with what has been
9 said, simply state so.

10 Written comments will be accepted through
11 close of business today. Once the record is closed,
12 the Medical Resource Office and the Commission will
13 carefully consider all comments and available
14 information and data prior to taking formal action
15 related to the 2020/2021 Arizona Physicians' and
16 Pharmaceutical Fee Schedule.

17 With that, we now begin with Greg Gilbert,
18 the first person who requested to speak.

19 Greg, if you're on the line, please hit star
20 6 to unmute yourself.

21 MR. GILBERT: Thank you, Mr. Chairman.
22 It's Greg Gilbert, G-r-e-g, Gilbert, G-i-l-b-e-r-t,
23 with Concentra. I just wanted to thank you and the
24 staff for doing this Amended Staff Proposal. Several
25 of the comments that I had in the first meeting and the

1 issues that we had outlined have been resolved with
2 this Amended Staff Proposal, and we support those
3 changes.

4 That's the end of my comments. Thank you.

5 CHAIRMAN SCHULTZ: Okay. Thank you,
6 Greg.

7 Do any of the Commissioners have any
8 questions for Greg before we proceed with our next?

9 Okay. Hearing none, then our next person
10 listed who wished to speak is Chad Snow.

11 Chad, are you on the line with us? If so,
12 please hit star 6 to unmute yourself and state your
13 name.

14 Chad, if you're there, please hit star 6 to
15 unmute yourself.

16 We'll go onto our next name then, and we'll
17 come back and give you yet another opportunity if you
18 are on the line or just joining us, Chad.

19 Next we have Deb Baker from Valley Schools.
20 Deb, if you're there, please hit star 6 to unmute
21 yourself. State your name.

22 MS. BAKER: I am here, Chairman.

23 CHAIRMAN SCHULTZ: Thank you, and you're
24 representing Valley Schools, correct?

25 MS. BAKER: Yes. And my name is

1 D-e-b-o-r-a-h Baker, B-a-k-e-r, and I agree with Greg.
2 I support the amendments and proposals 100 percent.

3 CHAIRMAN SCHULTZ: Great. Thank you,
4 Deb.

5 Do any of the Commissioners have any
6 questions for Deb? If not, we'll go back again and ask
7 if Chad Snow has joined us.

8 Chad, if you have, please hit star 6 to
9 unmute yourself.

10 Okay. That completes the folks that have
11 requested to speak. Now I'll open it up to anyone else
12 who wishes to make comments. You can hit star 6 to
13 unmute yourself. Please state your name and spell it
14 for the court reporter and state who you represent, and
15 you'll have five minutes.

16 Is there anyone else who wishes to speak?
17 Please unmute yourself, star 6 now.

18 MR. TRIBOUT: Greetings. This is Kevin
19 Tribout, T-r-i-b, as in boy, o-u-t, from Optum, and I
20 appreciate the opportunity to speak today. I'm in
21 agreement. I think that the changes to the Fee
22 Schedule or the Proposed Fee Schedule are very well
23 done.

24 I still am a little -- maybe not so much
25 concerned or confused about the definition of the

1 pharmacy accessible to the general public, not that I'm
2 in any way against the language. I understand what the
3 intent that the Commission is trying to do.

4 I just want to make sure that -- that the
5 definition of pharmacy accessible to the general public
6 could be a pharmacy such as a mail order pharmacy being
7 utilized because that particular insurer may have a
8 contract with a PBM that provides all services,
9 including mail order as an option.

10 My fear is that future -- in the future
11 those -- those words could be potentially twisted in
12 some way to say, well, that mail order pharmacy is not
13 necessarily, quote, "readily accessible" because I
14 can't walk up to it like I can my local on-the-corner
15 pharmacy.

16 So that's -- I just wanted to get that
17 potentially on the record to make sure that we were
18 clear on that, and otherwise I think the language is --
19 is fine, so thank you.

20 CHAIRMAN SCHULTZ: Thank you, Kevin.
21 And by "readily accessible," as I understand it, often
22 you can receive calls, you can receive e-mails, texts,
23 electronic communications, and that you serve multiple
24 areas of the marketplace in terms of many different
25 kinds of clients, many different health plans, and you

1 are not dealing exclusively with one segment of the
2 market; is that correct?

3 MR. TRIBOUT: That is correct, sir.

4 CHAIRMAN SCHULTZ: Thank you.

5 Do any of the Commissioners have any
6 questions for Kevin?

7 Hearing none. Thank you, Kevin.

8 Do we have anyone else who wishes to speak?
9 If you wish to speak, please star 6 to unmute yourself
10 and state your name.

11 Okay. Hearing none, we'll go back once more
12 to Chad Snow since he did request to speak.

13 Chad, are you there? Please hit star 6 to
14 unmute yourself.

15 MR. SNOW: I am here, Chairman. Can you
16 hear me?

17 CHAIRMAN SCHULTZ: Yes, I can. Thank
18 you, Chad.

19 MR. SNOW: Beautiful. I apologize for
20 not being able to get on sooner. Just -- and I haven't
21 looked really completely through the proposed changes.
22 I was out in the hospital most of the month of July.

23 And so just on behalf of AALIW, which is the
24 organization of attorneys that represent injured
25 workers, we would like to go on the record to the

1 extent any of the proposed changes limit an injured
2 worker's accessibility to different ways to obtain
3 their prescription medication.

4 Many of our clients aren't able to go to an
5 actual physical pharmacy, and so they rely on some of
6 the different mail order pharmacies to get their
7 medications. It's just another convenience for them,
8 some of whom are very severely injured and can't drive
9 or can't access public transportation.

10 And to the extent that any of the proposed
11 changes limit that convenience for injured workers, our
12 organization would be strongly opposed to it.

13 Thank you, Chairman.

14 CHAIRMAN SCHULTZ: Okay. Thank you,
15 Chad, and I'm very sorry to hear you were out. I'm
16 sure that you were sorely missed by your clients that
17 you represent, and I hope you're back healthy and will
18 stay healthy. We like to see you around the place.

19 MR. SNOW: All right. Thank you very
20 much, Chairman. I appreciate it.

21 CHAIRMAN SCHULTZ: You bet, and I'll
22 remind you, Chad, you have to the close of business
23 today to submit written comments. And, of course, in
24 your written comments, we always, always appreciate
25 verifiable facts and data. It is very, very helpful in

1 making our decisions.

2 Okay. Do we have anyone else on the phone
3 who wishes to speak? If so, please do star 6 to unmute
4 yourself and state your name and who you represent.

5 Okay. Then this will conclude the
6 Supplemental Annual Fee Schedule Public Hearing. We
7 appreciate your participation. As a reminder, although
8 the oral proceeding has concluded, written comments
9 will be accepted through the close of business today.

10 Written comments may be submitted to Charles
11 Carpenter, Manager of the Medical Resource Office. His
12 contact information is available on the Commission's
13 MRO webpage, linked through the ICA website at
14 www.azica.gov. All written comments, along with a
15 transcript of this hearing, will be posted on the MRO
16 webpage.

17 Thank you all. That concludes this public
18 hearing. Thank you.

19 (WHEREUPON, the proceedings were concluded at
20 1:25 p.m.)

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C E R T I F I C A T E

BE IT KNOWN that the foregoing proceedings were reported by Dorothy A. Schulte, Certified Reporter, Certificate No. 50459, State of Arizona, and reduced to written form under my direction; that the foregoing 21 pages constitute a full, true, and accurate transcript; all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 1st day of September, 2020.

Dorothy A. Schulte

Dorothy A. Schulte, RPR
Certified Court Reporter
Certified No. 50459