INDUSTRIAL COMMISSION OF ARIZONA

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PUBLIC HEARING REGARDING THE 2022-2023
ARIZONA PHYSICIANS' AND PHARMACEUTICAL FEE SCHEDULE

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June 30, 2022

1:00 p.m.

Prepared by: Dorothy A. Schulte, RPR
Certified Court Reporter
Certificate No. 50459

(ORIGINAL)
THE PUBLIC HEARING REGARDING THE 2022-2023
ARIZONA PHYSICIANS' AND PHARMACEUTICAL FEE SCHEDULE
was reported by Dorothy A. Schulte, CCR, RPR,
Arizona Certified Court Reporter No. 50459, in and
for the State of Arizona.

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TELEPHONIC APPEARANCES

COMMISSIONERS:  Vice Chair Joe Hennelly
                  Commissioner Alan Everett

STAFF:            Renee Pastor, Self-Insurance.

Fee Schedule Hearing:
Brian Allen/Mitchell Pharmacy Solutions
Dianne Shoemake/City of Glendale

IN-PERSON APPEARANCES

COMMISSIONERS:  Chairman Dale Schultz
                 Commissioner Scott LeMarr

STAFF:          James Ashley, Director
                Gaetano Testini, Chief Legal Counsel
                Trevor Laky, PIO and Legislative Affairs
                Charles Carpenter, MRO Manager
                Renee Englen, MRO Assistant
                Ruby Tate, Claims Manager
                Jessie Atencio, ADOSH Director
                Don Kautz, ADOSH Compliance
                Charlie Preciado, ADOSH Compliance
                Anna Maria Stonerock, ADOSH Admin
                Kara Dimas, Commission Secretary
PUBLIC COMMENTS

SPEAKERS:                  PAGE:
BARRY AARONS (THE AARONS COMPANY) ............... 10
BRIAN ALLEN (MITCHELL PHARMACY SOLUTIONS) ...... 13
Phoenix, Arizona
June 30, 2022
1:00 p.m.

PROCEEDINGS

CHAIRMAN SCHULTZ: All right. I think we are good to go.

Okay, so our first order of business today is a public hearing regarding the 2021 Arizona Physicians' and Pharmaceutical Fee Schedule established under A.R.S 23-908(B).

This public hearing is being held to give members of the public and Commission stakeholders an opportunity to comment on staff proposals regarding the 2022-2023 Arizona Physicians' and Pharmaceutical Fee Schedule and to make additional recommendations for changes to the Fee Schedule.

The staff proposal has been posted on the Commission's website for the last month.

Charles Carpenter, the manager of the Medical Resource Office, will provide a brief overview of the staff proposal.

MR. CARPENTER: All right. Good afternoon, Chairman, Commissioners, Director Ashley,
colleagues, and guests. And thank you for the opportunity to present the staff proposal for the 2022-2023 Physicians' and Pharmaceutical Fee Schedule.

First, staff proposes to include the updated service codes, relative value units or (RVUs), and reimbursement values as presented in the tables accompanying the published proposal.

The methodology used in computing reimbursement values has not changed from previous years and is outlined in detail in the proposal. The proposed 2022-2023 Fee Schedule will continue to use the Centers for Medicare and Medicaid services, or CMS, continue to use their surgical global periods, assign RVUs to consultation services, and delineate codes that are unique to Arizona.

Staff proposes to maintain the RBRVS conversion factors used in the 2021-2022 Fee Schedule.

Second, staff proposes to continue to designate -- the designation of Medi-Span as the source to determine Average Wholesale Price or (AWP).

Third, staff proposes to adopt the deletions and additions to the 2022 edition of the American Medical Association's Current Procedural Terminology publication, also known as the CPT.

Fourth, staff proposes to amend the
introduction Section of the Fee Schedule in Sections A
and J by adding clarifying language to subsections A(2)
and J(4). Staff also proposes the addition of a new
section, and that will become Section (I). This new
section provides updated guidance on reimbursing
healthcare providers who testify at hearing.

Regardless of the party who files for a
hearing, if a healthcare provider is requested by an
insurance provider, a self-insured employer, or the
Special Fund of the Commission, to provide testimony at
hearing, they, that is the insurance provider and the
self-insured employer, or the Special Fund, will be
responsible to provide payment to that witness. The
amount that those entities will be responsible to pay
is a minimum of 150 dollars for the first hour of
testimony or any portion of that hour. Payment for
time spent giving testimony after the initial hour is
equal to 50 dollars for each 20-minute increment
thereafter.

Witnesses requested by the injured worker
will be reimbursed by the Commission at a rate of 150
dollars for the initial hour, or any portion thereof,
and 50 dollars for each 20-minute increment thereafter.

Prior to proposing an update to the witness
fees, the Medical Resource Office staff -- we gathered
and we analyzed data from other jurisdictions on how they paid for witness fees or for witnesses who are requested to testify at hearing.

The majority of states require the requesting party be responsible for paying their witness fees and not all of the states regulate the amount paid for witness fees.

The proposed witness fee update this year will increase the amount witnesses are paid while maintaining the ability of an injured worker to request the testimony of a healthcare provider at a hearing without financially burdening the injured worker.

Fifth, staff proposes to amend the Surgery Section of the 2022-2023 Fee Schedule by adding modifiers "82" and "AS" to Section D along with language that clarifies the appropriate level of the healthcare provider who should use modifier "AS". Staff also proposes updating the reimbursement value for modifier "81" to 16 percent of the listed value of that surgical procedure. This aligns with the current Medicare reimbursement value.

Sixth, staff proposes to amend portions of the Physical Medicine and Rehabilitation Guidelines to clarify that time spent performing time-based modalities is included when determining the total
treatment time and the total number of units that may be billed during a single visit. However, the time spent performing time-based modalities does not count toward the time requirement for therapeutic procedures that necessitates prior approval from the payer.

Finally, staff proposes to update the service description of code AZ099 based on the proposed changes to the witness fees. The new language reflects the amount for the initial hour and that the fees are prorated after the first hour based on 20-minute increments.

So the Medical Resource Office appreciates your time considering this proposal, and I'm happy to take any questions from the Commission.

CHAIRMAN SCHULTZ: Any questions for Charles?

Joe or Alan, any questions for Charles?

MS. DIMAS: Commissioner Everett, you may need to unmute yourself.

CHAIRMAN SCHULTZ: Okay. We're good then. Let's move on, and now we welcome those present and on the phone who wish to present any oral comments and recommendations regarding the 2022-2023 Fee Schedule.

We'll start with the list of people that have
already requested to speak per the instructions you received a month ago with a copy of the proposed updates.

Others wishing to speak will then also be given an opportunity. You will have five minutes to speak. At the beginning of your comments, for the record and the court reporter, please state your name again and spell it and state who you represent.

At the conclusion of your comments, the Commissioners and staff may ask you questions. In the interest of time, please do not repeat what other speakers have stated. If you agree with what has been said, simply state as such.

Although the public hearing will end when oral comments have concluded, written comments will be accepted through close of business on Thursday, July 7, 2022. That's Thursday, July 7, 2022.

Once the record is closed, the Medical Resource Office and the Commission will carefully consider all comments and available information and data prior to taking formal action related to the 2022-2023 Arizona Physicians' and Pharmaceutical Fee Schedule.

Now, let's start with public comments. And let's see. Where do we have our list of folks. Those
are both about ADOSH.

Okay, so let's see. I actually first see, on our list here of the folks who have signed in, Barry Aarons.

Barry, would you like to join us?

MR. AARONS: Good afternoon, Mr. Chairman, Members of the Commission. For the record, my name is Barry Aarons. Last name is spelled A-a-r-o-n-s. I'm here on behalf of the Arizona Association of Lawyers for Injured Workers and Injured Workers Pharmacy.

We have a couple of comments related to not just the proposal but the process as it was developed. I want to thank the Commission and, in particular, I want to thank Mr. Laky for his cooperation and assistance during legislative session. During which time, the legislature passed House Bill 2202, which amended 23-908, to provide some additional process in determining the Pharmacy Fee Schedule, to that, and I also want to thank Mr. Laky and Mr. Carpenter for conducting your required stakeholder meeting, which I thought was robust and was informative and led us not just to discussions about what's before us today but some really interesting ideas for moving into the future. And we appreciate that.
I would add one process suggestion to you, Mr. Chairman, Members of the Commission, and that is that although the law only requires a stakeholder meeting between the time that the proposal was issued and this hearing, we would suggest that if the Commission staff makes significant changes in the proposal based on the comments from this hearing or other evidence that they collect in terms of written comments, that since you're required to post the -- that seven business days prior to when you have the hearing to adopt it, if you consider -- if changes have been made that you consider conducting another one of the stakeholder meetings that Mr. Carpenter or Mr. Laky convened earlier this month so we would have an opportunity to review it, discuss it, chat about it and see if there's anything that we can do to modify it if there are significant changes.

Lastly, I would tell you that we do not have objections to what is proposed here today. We particularly want to say that the witness fee addition is a good addition, adds some predictability to the process. And we appreciate that.

With that, Mr. Chairman, I'm happy to entertain questions.

CHAIRMAN SCHULTZ: Any questions for
Mr. Aarons?

Commissioners on the phone, any questions for
Mr. Aarons?

MR. HENNELLY: Not for me.

CHAIRMAN SCHULTZ: Okay. Thank you.

Alan, any?

Okay.

MR. AARONS: And with that,
Mr. Chairman, again, I want to thank you for your
willingness to meet with me one on one several times.
We had good, robust discussions, and I appreciate that.

CHAIRMAN SCHULTZ: Always my pleasure,
Barry.

MR. AARONS: Thank you, Mr. Chairman.

CHAIRMAN SCHULTZ: Thank you for joining
us today.

Okay, and let's see on the phone -- those are
all about self-insured, ADOSH, and the only person I
show on the phone joining us for the Fee Schedule
hearing is Dianne Shoemake.

Dianne, did you wish to make any comments, or
are you just listening in today?

Dianne, you need to hit star six to unmute
yourself.

MS. SHOEMAKE: Sorry about that. I have
no comments at this time, but thank you very much for giving me this opportunity.

CHAIRMAN SCHULTZ: Great. Okay. Thank you.

Okay. I don't see any others who indicated they wish to have an opportunity to speak, and so I will open it to those of you who have joined us.

Is there anyone here who wishes to speak to the issue of the 2022-2023 Physicians' and Pharmaceutical Fee Schedule?

Hearing none, is there anyone on the phone who has not identified themselves as wishing to speak who does wish to speak to the Fee Schedule? Now is your opportunity. Please hit star six to unmute yourself and give us your name and who you represent.

Hearing none --

MR. ALLEN: This is Brian Allen. This is Brian Allen from Mitchell Pharmacy Solutions. I just wanted to comment, first of all, on the stakeholder meeting. I thought it was very well done and extremely helpful. I also just wanted to express our support for your continuation of using Medi-Span as the source for AWP. We appreciate that, and that's helpful. Thank you.

CHAIRMAN SCHULTZ: Okay. Thank you,
Mr. Allen.

    Any questions for Mr. Allen?

    Okay. Then if there's no one else who wishes to speak to the Fee Schedule, this will conclude the annual Fee Schedule Public Hearing.

    As a reminder, although the oral proceeding has concluded, written comments will be accepted through the close of business on July 7, that's July 7, 2022. Written comments may be submitted to Charles Carpenter, manager of the Medical Resource Office. His contact information is available on the Commission's Medical Resource Office web page at azica.gov.

    All written comments, along with a transcript of this hearing, will be posted on the Medical Review Office web page, so you can look to comments from others on the web page.

    Okay. If there's no one else who wishes to comment, then let us move on to our other items of business on our agenda today.

    (WHEREUPON, the hearing concluded at 1:32 p.m.)
CERTIFICATE

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 pages constitute a full, true, and correct transcript of said shorthand record; all done to the best of my skill and ability.

DATED at Phoenix, Arizona, this 19th day of July, 2022.

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Dorothy A. Schulte

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