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INDUSTRIAL COMMISSION OF ARIZONA

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

* * * * *

June 30, 2022

1:00 p.m.

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

***PERFECTA REPORTING
602-421-3602***

(ORIGINAL)

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

6 * * * * *

7 TELEPHONIC APPEARANCES

8
9 COMMISSIONERS: Vice Chair Joe Hennelly
Commissioner Alan Everett

10 STAFF: Renee Pastor, Self-Insurance.

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

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16 IN-PERSON APPEARANCES

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18 COMMISSIONERS: Chairman Dale Schultz
Commissioner Scott LeMarr

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

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SPEAKERS:	PAGE:
BARRY AARONS (THE AARONS COMPANY).....	10
BRIAN ALLEN (MITCHELL PHARMACY SOLUTIONS).....	13

1 *Phoenix, Arizona*
2 *June 30, 2022*
3 *1:00 p.m.*

4 P R O C E E D I N G S

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

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

13 This public hearing is being held to give
14 members of the public and Commission stakeholders an
15 opportunity to comment on staff proposals regarding the
16 2022-2023 Arizona Physicians' and Pharmaceutical Fee
17 Schedule and to make additional recommendations for
18 changes to the Fee Schedule.

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

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

24 MR. CARPENTER: All right. Good
25 afternoon, Chairman, Commissioners, Director Ashley,

1 colleagues, and guests. And thank you for the
2 opportunity to present the staff proposal for the
3 2022-2023 Physicians' and Pharmaceutical Fee Schedule.

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

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

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

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

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

25 Fourth, staff proposes to amend the

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

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

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

24 Prior to proposing an update to the witness
25 fees, the Medical Resource Office staff -- we gathered

1 and we analyzed data from other jurisdictions on how
2 they paid for witness fees or for witnesses who are
3 requested to testify at hearing.

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

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

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

22 Sixth, staff proposes to amend portions of
23 the Physical Medicine and Rehabilitation Guidelines to
24 clarify that time spent performing time-based
25 modalities is included when determining the total

1 treatment time and the total number of units that may
2 be billed during a single visit. However, the time
3 spent performing time-based modalities does not count
4 toward the time requirement for therapeutic procedures
5 that necessitates prior approval from the payer.

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

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

15 CHAIRMAN SCHULTZ: Any questions for
16 Charles?

17 Joe or Alan, any questions for Charles?

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

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

25 We'll start with the list of people that have

1 already requested to speak per the instructions you
2 received a month ago with a copy of the proposed
3 updates.

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

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

14 Although the public hearing will end when
15 oral comments have concluded, written comments will be
16 accepted through close of business on Thursday, July 7,
17 2022. That's Thursday, July 7, 2022.

18 Once the record is closed, the Medical
19 Resource Office and the Commission will carefully
20 consider all comments and available information and
21 data prior to taking formal action related to the
22 2022-2023 Arizona Physicians' and Pharmaceutical Fee
23 Schedule.

24 Now, let's start with public comments. And
25 let's see. Where do we have our list of folks. Those

1 are both about ADOSH.

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

5 Barry, would you like to join us?

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

12 We have a couple of comments related to not
13 just the proposal but the process as it was developed.
14 I want to thank the Commission and, in particular, I
15 want to thank Mr. Laky for his cooperation and
16 assistance during legislative session. During which
17 time, the legislature passed House Bill 2202, which
18 amended 23-908, to provide some additional process in
19 determining the Pharmacy Fee Schedule, to that, and I
20 also want to thank Mr. Laky and Mr. Carpenter for
21 conducting your required stakeholder meeting, which I
22 thought was robust and was informative and led us not
23 just to discussions about what's before us today but
24 some really interesting ideas for moving into the
25 future. And we appreciate that.

1 I would add one process suggestion to you,
2 Mr. Chairman, Members of the Commission, and that is
3 that although the law only requires a stakeholder
4 meeting between the time that the proposal was issued
5 and this hearing, we would suggest that if the
6 Commission staff makes significant changes in the
7 proposal based on the comments from this hearing or
8 other evidence that they collect in terms of written
9 comments, that since you're required to post the --
10 that seven business days prior to when you have the
11 hearing to adopt it, if you consider -- if changes have
12 been made that you consider conducting another one of
13 the stakeholder meetings that Mr. Carpenter or Mr. Laky
14 convened earlier this month so we would have an
15 opportunity to review it, discuss it, chat about it and
16 see if there's anything that we can do to modify it if
17 there are significant changes.

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

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

25 CHAIRMAN SCHULTZ: Any questions for

1 Mr. Aarons?

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

4 MR. HENNELLY: Not for me.

5 CHAIRMAN SCHULTZ: Okay. Thank you.
6 Alan, any?

7 Okay.

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

12 CHAIRMAN SCHULTZ: Always my pleasure,
13 Barry.

14 MR. AARONS: Thank you, Mr. Chairman.

15 CHAIRMAN SCHULTZ: Thank you for joining
16 us today.

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

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

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

25 MS. SHOEMAKE: Sorry about that. I have

1 no comments at this time, but thank you very much for
2 giving me this opportunity.

3 CHAIRMAN SCHULTZ: Great. Okay. Thank
4 you.

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

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

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

16 Hearing none --

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

25 CHAIRMAN SCHULTZ: Okay. Thank you,

1 Mr. Allen.

2 Any questions for Mr. Allen?

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

6 As a reminder, although the oral proceeding
7 has concluded, written comments will be accepted
8 through the close of business on July 7, that's July 7,
9 2022. Written comments may be submitted to Charles
10 Carpenter, manager of the Medical Resource Office. His
11 contact information is available on the Commission's
12 Medical Resource Office web page at azica.gov.

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

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

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

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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 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.

Dorothy A. Schulte

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