



TRETCHOK, McNAMARA & MILLER, P. C.

attorneys at law

2500 East 10th Street

P. O. Box 42887 • Tucson, Arizona 85733-2887

telephone: 520.622.2833 • Fax: 520.792.2417

e-mail: lawyers@tmpclaw.com

Patrick R. McNamara*
 Meghan McNamara Miller

Blair A. Feldman
 J. Patrick Butler – Of Counsel
 Leonie D. Gray – Of Counsel

April 26, 2017

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 Industrial Commission of Arizona

APR 26 2017

DIRECTOR

Dale L. Schultz, Chairman
 Joseph M. Hennelly, Jr., Vice Chairman
 Scott P. LaMarr, Member
 Robin S. Orchard, Member
 Industrial Commission of Arizona
 800 W. Washington St.
 Phoenix, AZ 85007

Re: Modifications in the Medical Fee Schedule

Dear Commissioners:

I am writing to express my vehement opposition to your recent recommendations regarding reduction in the medical fee schedule.

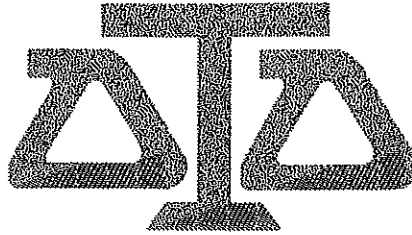
I am a lawyer and a former administrative law judge and hearing officer of the Industrial Commission. I have been in practice in this area for over 40 years. I represent only industrially injured workers (I do no defense work).

I have been certified by the State Bar as a specialist in workers' compensation since 1981. I have handled multiple cases (thousands of them) through the hearing process and scores through the Court of Appeals and a more than a handful of cases through the Arizona Supreme Court.

Article 18, Section 8 of the Arizona Constitution mandates that the Legislature set up a no fault compensation system. The "grand bargain" was that the injured workers give up their common law rights to sue the employer in exchange for the sure thing of a workers' compensation claim with guaranteed "no-fault" coverage for medical and time lost from work.

The history is set forth in *Grammatico v. Industrial Commission*, 211 Ariz. 67, 117 P.3d 786 (2005) wherein the Supreme Court, sitting *en banc*, reasoned that the constitutional mandate and the decisional law is clear that the system was set up by constitutional mandate to protect injured workers and to place the burden of industrial injuries and deaths squarely on the shoulders of industry.

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I just heard of your recommendations for a reduction in reimbursements to many of the doctors who regularly practice in this field. The input I got from the doctor who told me about the changes was that he was no longer going to be able to provide treatment for industrially injured workers. This shocked me.

I frankly, could not believe that the Industrial Commission (whose mission statement should be to protect injured workers) would take action that will, without doubt, cause injured workers in this state to not have access to needed medical care from the crucial specialties of orthopedics, neurology, neurosurgery and pain management.

I cannot speak for the whole state but here in Tucson there are precious few doctors now who take workers' compensation cases. The remainder of the specialists who are not yet declining to take workers compensation cases are precisely those who will be adversely affected by this reduction in medical reimbursements.

In addition to providing the necessary treatment, the doctors are called upon to fill out many forms, to correspond with the industrial insurance carriers and their case managers and oftentimes their recommendations for treatment are not approved because of the adoption of the ODG. Their bills also take months to be paid and are already chiseled down and reduced by auditors and claims representatives from the insurance industry. Your actions create even more of a hostile environment for "real" doctors who regularly treat patients in industrial cases.

The action you plan to take will hurt injured workers in Arizona very badly and serve to reduce the amount of doctors by forcing them out of the system and will interfere with the recovery of the injured workers. In the field of pain management it will be particularly harmful because people with chronic pain problems who may need opiates or complex interventional pain modalities will not be able to get treatment and the suicide rates will go through the roof.

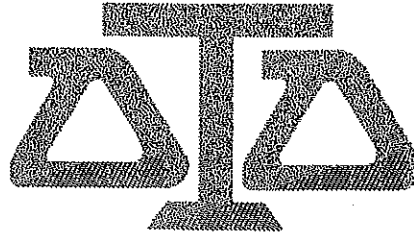
I understand however that the reimbursements for the industrial clinics such as Concentra and MBI and those others that are usually closely aligned with the employers and self-insurers, will see an increase in their reimbursements.

This proposed change is particularly troublesome because we have already had a number of doctors whose hands are tied because of the adoption of the ODG are not willing to provide treatment for industrially injured patients.

Your actions in reducing the reimbursements to doctors will now cause further extensive harm.

I sincerely question the motivation of the Commission in reducing the medical reimbursements (while sponsoring directed care) because neither action is in any way beneficial

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to the injured workers who are supposedly protected by the system. There is no conceivable benefit to injured workers from the medical reimbursement schedule you are advocating.

This is a very disturbing trend and if the motivation for throwing injured workers under the bus is to reduce premiums for employers, I will point out that at 38th out of the 50 states, Arizona is already at the lowest tier in terms of rates for employers to cover their injured workers.

Our system has worked well since its inception. Until very recently the basic tenets of workers' compensation seem to have been strictly adhered to and continued in our system.

Those rights are being eroded significantly, all to the substantial detriment of the unfortunate individuals who work in the mines and construction and end up being hurt on the job.

An old adage says "If the system ain't broke don't fix it." This system "ain't broke" and your attempts to "fix it" are one more step in eviscerating the tried and true system of compensation in the State of Arizona.

I implore you to reconsider your decision with regard to reimbursements and to leave the system as is.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patrick R. McNamara". The signature is stylized and somewhat cursive, with a long horizontal line extending to the right.

Patrick R. McNamara

PRM/cms/ncPRM-01

cc: Jacqueline Kurth, Medical Resource Office
Arthur V. Gage, Esq.
Debra L. Runbeck, Esq.
Brian I. Clymer, Esq.
Barry Aarons