

May 3, 2017

Dear Industrial Commission of Arizona and Commissioners;

I want to thank you for the opportunity to speak at your open forum on Thursday April 27th. I am following up with some written comments regarding the new method of calculating the fee schedule and your proposed rulemaking to deal with and restrict silent PPO's and specialty networks. I/we support both of these initiatives and opportunity to comment further.

Firstly, I want to say, "it is about time". I am very grateful the Commission has finally come up with a method to deal with these predatory middleman network schemes that have been taking advantage of good hearted Arizona PT and OT providers for many years now. All they do is delay, obstruct, deceive and interfere with the care of the Arizona injured worker to no one's benefit except their own bottom lines and greed. They have profited of the backs of Arizona providers for long enough sending billions of dollars to foreign investors when the money should be staying in the Arizona economy. We should all be here to serve the Arizona workers and employers who are the primary stakeholders and why the systems exists in the first place.

I am in the physical and occupational therapy space so my comments will mostly be relevant to those practice areas. The rehab providers in this community generally do very good work and the private therapists in practice are an important element in keeping and returning function to Arizona workers recovering from injury or illness. I have been a provider in Arizona since the 1980's and have managed worker's compensation cases since that time. I have also operated a small specialty network so have a unique perspective to offer. I want to be clear I am not against legitimate networks. In fact, I realize the added service a good network can bring to us as a provider and partner. As a network operator our goal was not to take advantage of our colleagues. From this experience it is obvious a good network that cares about their members can exist and do their job without preying upon the folks who are on the ground doing the work. An Arizona employer will still be free to negotiate discounts and use a network. We do this successfully now in partnership with Arizona employers so it can be done and be a win-win-win situation.

I started filing formal complaints to the ICA over seven years ago without seeing much change. It was very disheartening but I was determined to fight them the best I could with or without the Commissions help. I cannot tell you the countless hours I and our staff have spent on this issue trying to protect our business and referrals from the aggressive tactics these networks use to hijack or hold our referrals hostage until we agreed to their discount. The practices these networks use is bold, up front and very aggressive. This week alone we had two instances of a national network interfering and trying to direct care. They use intimidation tactics to scare uninformed injured workers. They will call patients and tell them they have to stop coming to us because we are not "in-network". Injured workers listen to them because they are afraid of losing their jobs. We are left losing a case we worked hard for. The payers and TPA community are not innocent in all this. These deals were being set up in boardrooms and backrooms and local managers knowing Arizona law still encourage the practice unless they were called out on it. I once had a manager of a local TPA tell me to "just accept it" as there was nothing that could be done because they were just following orders from head office.

The financial cost to our practice has been significant. I am aware of one to two cases per week where network tampering is occurring and injured worker's choice of provider is being taken from them and being directed away from us. However, my feeling is there are many more that we never hear about

because they do not reach our door. In addition, as these middlemen specialty networks proliferate and their practices of directing care become more aggressive and bold we have seen a steady decrease in our overall workers' compensation cases. In 2008 workers compensation cases averaged 30% of our overall referrals. In 2016 we averaged in the vicinity of 10%. This reduction has had a significant negative impact on our practice. The playing field is not even close to being level.

The problem with these networks is progressively worsening. Arizona is one of their best markets because the fair fee schedule allows them to profit significantly when taking home 60 to 70% of the providers reimbursement all for the privilege of the middleman making a referral that was liking already destined for us. Then, they would hold the referral hostage blackmailing us until we signed a letter of agreement with them. The ICA undertook an education program regarding direction of care and other things a few years back under Director McGrory but the impact was minimal to none. The civil penalties are not near enough to deter the problem. The adjustors, many out of state, act ignorant when called out. The practice is proliferating and will continue to do so. This is why I feel the language as written in the new proposed rule is important to maintain. If there is no teeth in the policy or if it gets watered down it just won't be enough to discourage the methods used by these network entities. These middleman networks who do this "dirty work" on behalf of the adjustors/TPA's/payers will willfully continue to violate Arizona law unless strong aggressive action is taken. As I said, this is a key market for those with greedy intentions.

I am in support of the method the Commission is proposing to use for fee schedule adjustments and fee setting. The RBRVS system is a proven scientific methodology that works. From a physical medicine and rehabilitation perspective the impact is positive. However, I am concerned that some good physicians and notably surgeons who understand the work comp system and who do considerable amounts of extra unpaid work are being asked to bear a big burden. The current fee schedule compensates them for this additional time. My concern is that without them our work cannot be as effective. You heard from many at the public fee schedule hearing and we support and echo their concerns. There is already a shortage of knowledgeable doctors willing to see industrial cases and we do not see that improving without financial incentive.

In conclusion I am happy the ICA is finally taking the strong appropriate action to deter the practice of these non-legitimate specialty networks. It is needed because the practice will proliferate destroying the integrity of the Arizona worker's compensation system. We very much appreciate the medical fee schedule but have not had much of an opportunity to reap the benefits for the work we do. We feel these specialty networks with predatory models interfere with the integrity of the fee schedule. I have been on the front lines of this for a long time and would offer my assistance, experience and expertise should it be needed for any further review or problem solving during the rulemaking process.

Respectively,

A handwritten signature in black ink on a light blue background. The signature reads "Mark Hyland" in a cursive, slightly slanted script.

Mark Hyland, OTR/L, CHT, DABDA
STI Physical Therapy and Rehabilitation
STI Occupational Health