



## MEMORANDUM

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TO: The Honorable Members of the Illinois General Assembly

FROM: The Illinois State Medical Society

RE: Reductions to the Workers' Compensation Medical Fee Schedule

DATE: May 29, 2015

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The proposed reductions to the Workers' Compensation Medical Fee Schedule are shortsighted, as they do not take into consideration the costs of treating workers' compensation patients and the benefits of providing quality care to patients in a timely manner following their workplace injury.

Recent data from the Workers' Compensation Research Institute (WCRI) shows the medical prices per claim in Illinois are decreasing, following the 30 percent reduction instituted in 2011. Focusing on the value of medical care, as opposed to individual prices, is a more effective means of judging the health of a workers' compensation system. One way to improve the value of that care is to finally address the administration of workers' compensation medical services as they are enforced by the Workers' Compensation Commission. Four years following the 2011 reform, electronic billing rules have not been promulgated to provide a much needed standardization to the workers' compensation billing process. Physicians have no way to enforce late interest penalties for approved medical claims. Instead, physicians and other medical providers must endure long waits for payments. If the medical fee schedule is reduced to rates of Medicare and private payers, physicians will not accept workers' compensation patients because the additional work they perform for these patients will not be adequately compensated.

### Citing to Outdated, Limited, and Premature Studies

Proponents of cutting the Illinois Medical Fee Schedule have cited a study released in January 2014 by the WCRI that purportedly shows Illinois as a state with high workers' compensation medical costs. This study uses an extremely limited data set and contains only a half year of data for claims from January 1, 2012, to June 30, 2012.<sup>1</sup> Further, the study examines individual prices paid for specific procedures, instead of looking at the total price per claim, the ultimate cost driver for workers' compensation. This is because overall costs per claim measure more than prices for each medical service, but also the utilization of services, which is how often such services or procedures are performed.

The most recent report from WCRI tells a different story. Using the more informative measure of judging workers' compensation medical costs, WCRI's CompScope Medical Benchmarks shows that medical payments per claim in Illinois following the 30 percent reduction were closer to the median of

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<sup>1</sup> Workers' Compensation Research Institute, The Effect of Reducing the Illinois Fee Schedule, Jan. 2014, pg. 10, footnote a. See also id. at 17 (stating that medical billing data utilized was from 30 payers).

the 16 study states, which included Indiana, Iowa, and Wisconsin.<sup>2</sup> WCRI also reports that the average medical payment per claim in Illinois for many nonhospital and hospital services “decreased substantially.”<sup>3</sup> Medical payments per claim for common services billed by nonhospital providers decreased in the range of 21-32 percent.<sup>4</sup> More specifically, payments per claim for office visits decreased 25 percent, minor radiology decreased 31 percent, major radiology decreased 21 percent, surgery decreased 23 percent, pain management injections decreased 32 percent and physical medicine decreased 26 percent. When compared to the rest of the nation, data indicates that in Illinois, medical costs do not constitute a majority of workers’ compensation costs.<sup>5</sup>

Costs for Physicians to Treat Workers’ Compensation Patients

Additionally, there is nothing in any WCRI report that analyzes or addresses the costs of providing care to workers’ compensation patients, either here in Illinois or in comparing one state to another. However, the costs associated with providing care to any patient in Illinois, but especially to workers’ compensation patients, are significantly higher in Illinois than in surrounding states. The workers’ compensation system requires significant administrative burdens that do not accompany other patients, including intensive utilization review, meetings with case managers, depositions, and increased correspondence. Even just trying to find the workers’ compensation insurer will take additional staff time, as workers’ compensation patients will not know the name of the insurance company or whether their employer is self-insured.

Payment delays are a significant consideration for physicians who treat workers’ compensation patients. Even on claims that are not contested by insurance companies, the delay in payment is significantly higher than group health claims, despite the fact there is a 1 percent late interest penalty for approved workers’ compensation claims.<sup>6</sup> Consider the following statistics provided by a large orthopedic practice located in the Western suburbs of Chicago.

<b>Payer Type</b>	<b>Average Time Until Payment</b>
Medicare	17 days
Blue Cross Blue Shield	24 days
Litigated Workers’ Compensation Cases	Over 1,000 days
“Approved” Workers’ Compensation Cases	283 days

Access to Care

Cuts to the Medical Fee Schedule will force medical practices to evaluate whether they can continue to accept workers’ compensation patients. It should be expected that decreasing revenue from workers’ compensation treatment coupled with recent cuts to physician Medicaid reimbursement will further erode access to care, not only for workers’ comp patients, but especially for Medicaid patients - cuts that will likely put physician reimbursements at the lowest in the nation.

<sup>2</sup> Workers’ Compensation Research Institute, CompScope Medical Benchmarks For Illinois, 15th ed. Apr. 2015, pg. 16.

<sup>3</sup> Id. at 4.

<sup>4</sup> Id at 4-5.

<sup>5</sup> National Council on Compensation Insurance, Illinois State Advisory Forum 2014, Aug. 28, 2014, pg. 54, [https://www.ncci.com/documents/SAF\\_IL.pdf](https://www.ncci.com/documents/SAF_IL.pdf).

<sup>6</sup> 820 ILCS 305/8.2(d)(1).

Access to quality health care for injured workers has already been threatened by the 2011 30 percent across-the-board reduction to the Medical Fee Schedule. The Workers' Compensation Commission has been forced to raise the Medical Fee Schedule in two separate instances to ensure that injured workers could get the care they needed. Further reductions to the Medical Fee Schedule will send a clear message to physicians that Illinois does not recognize the cost of providing care to patients. It will be too late for the State to take action to restore access when physicians no longer can provide critical and skilled care to injured workers.

### Needed Reforms for Medical Providers

While medical costs compose 49 percent of the workers' compensation system in Illinois, the scope of the most recent "reform" legislation has not included ways to remove the "friction" from the provision of medical care. One of the provisions of the 2011 reform that still has not been implemented is the requirement for workers' compensation insurance companies to move into the 21<sup>st</sup> century to accept electronic claim submissions from medical providers.<sup>7</sup> Electronic claims submission has been implemented in other states, such as California and Texas.<sup>8</sup> Instead of relying on paper bills, faxing, and follow-up phone conversations, electronic billing, such as the Electronic Data Interchange (EDI) method that is mandated in other states, can reduce claim submission costs by over 55 percent.<sup>9</sup> The American Medical Association has supported the work of other states to adopt a model rule for electronic billing, acknowledging how streamlining this system reduces administrative costs and paperwork for physician treating workers' compensation payments.<sup>10</sup> The 2011 reform recognized the cost savings potential of electronic claims submission and rightfully mandated that such a program be instituted in Illinois, but nearly three years after such system was supposed to be instituted, there is still no electronic claims submission in Illinois.<sup>11</sup>

In addition, the 2011 reform appeared to provide some relief to physicians who do not receive payments for approved medical treatment for workers' compensation patients. The 2011 legislation decreased the time period from 60 to 30 days for the collection of a 1 percent interest penalty on unpaid bills, apparently as an effort to provide relief for medical providers who have not been paid for their services.<sup>12</sup> However, there is no way that medical providers can enforce this provision at the Commission. While the Department of Insurance issued a bulletin to insurers and third-party administrators to advise them of their "duty" to comply with this legislative mandate, the bulletin simply directed any questions to the general information email address for the Workers' Compensation

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<sup>7</sup> 820 ILCS 305/8.2a.

<sup>8</sup> See Texas Dept. of Insurance, Electronic Medical Billing, <http://www.tdi.texas.gov/wc/hcprovider/billing.html#ebill>; State of California, Dept. of Industrial Relations, Electronic Billing Regulations, [http://www.dir.ca.gov/dwc/DWCPropRegs/Ebilling/Ebilling\\_Regulations.htm](http://www.dir.ca.gov/dwc/DWCPropRegs/Ebilling/Ebilling_Regulations.htm).

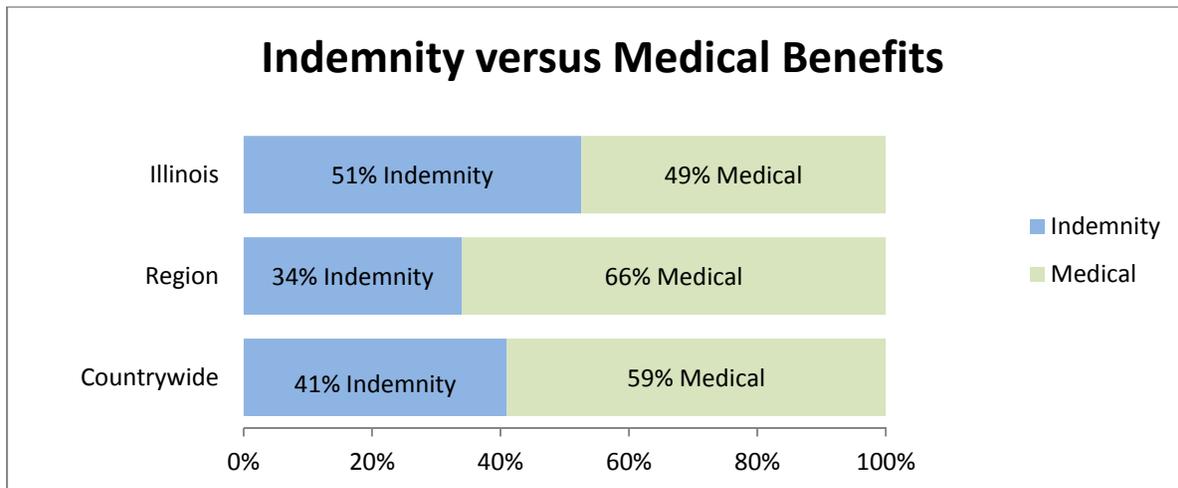
<sup>9</sup> American Medical Association, Property and Casualty (Workers' Compensation and Auto Injury) Toolkit, <http://www.ama-assn.org/ama/pub/advocacy/topics/administrative-simplification-initiatives/electronic-transactions-toolkit/workers-compensation.page>.

<sup>10</sup> American Medical Association, AMA Supports Model Rule to Streamline Medical Billing for Workers' Compensation Insurance, Apr. 25, 2012, <http://www.ama-assn.org/ama/pub/news/news/2012-04-25-medical-billing-workers-compensation-insurance.page>

<sup>11</sup> The 2011 reform mandated that these rules be proposed by the Department of Insurance on or before January 1, 2012, with required compliance by June 30, 2012. See 820 ILCS 305/8.2a(c).

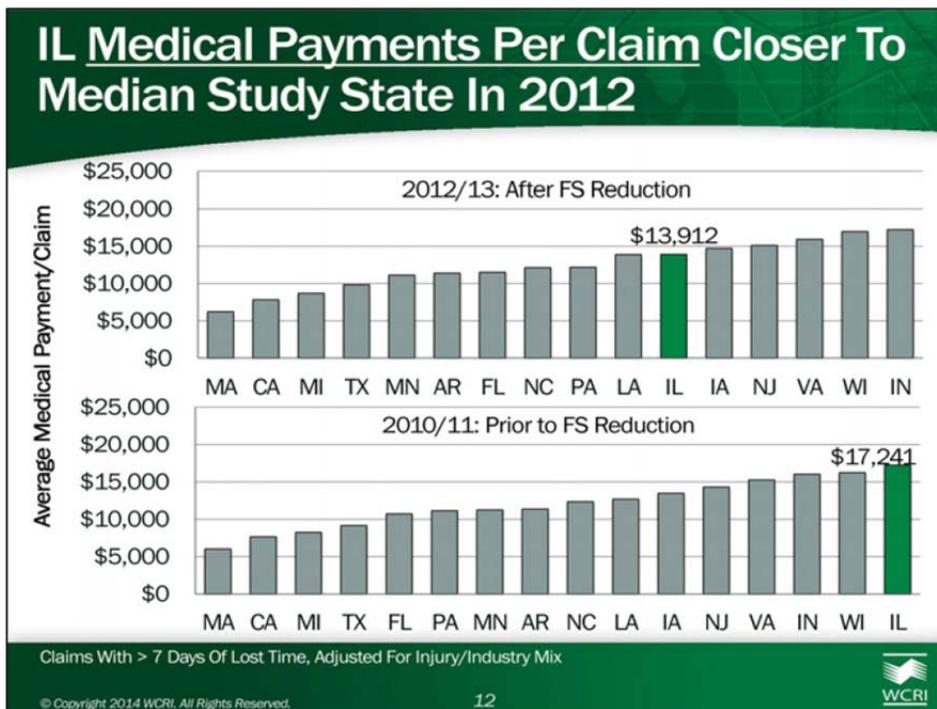
<sup>12</sup> 820 ILCS 305/8.2(d) (1)-(3).

Commission.<sup>13</sup> In several other states, including Wisconsin, California, and Colorado, there are dispute resolution processes established by law that specifically address medical disputes.<sup>14</sup>



Region includes Indiana, Iowa, and Missouri

Source: National Council on Compensation Insurance, Illinois State Advisory Forum 2014, Aug. 28, 2014, pg. 54



In 2012/13, the average medical payment per claim with more than seven days of lost time in Illinois was 14 percent higher than the median study state for claims with 12 months of experience. Prior to the reduction in the fee schedule rates, Illinois had the highest average medical payment per claim of all study states.

Medical payments incorporate both price and utilization of services. As discussed on earlier slides, medical utilization was fairly stable in Illinois between 2010/11 and 2012/13, and most of the impact on medical payments per claim in Illinois could be attributed to the decrease in the fee schedule rates.

Source: Workers' Compensation Research Institute, CompScope Medical Benchmarks For Illinois, 15th ed. Apr. 2015, pg. 16.

<sup>13</sup> Illinois Dept. of Insurance, Company Bulletin 2012-09, <http://www.iwcc.il.gov/CB2012-09.pdf>.

<sup>14</sup> Workers' Compensation Research Institute, Workers' Compensation Medical Cost Containment: A National Inventory, 2015, Table 20, pg. 96-101, <http://www.wcrinet.org/studies/public/books/wcri305.pdf>.