December 14, 2020

Hon. George Parisotto
Administrative Director
Division of Workers Compensation
1515 Clay Street, 17th floor
Oakland, CA 94612

Director Parisotto,

Please accept the following as addition to written comments dated December 9, 2020 and submitted December 13, 2020.

Based on this morning's Public Hearing testimony, pages of records are at best, a faulty surrogate for complexity. The current proposal offers no improvement in the number or depth of the points of friction that will present themselves.

But for the further delay it would cause, there is substantial support for improving the current Medical-Legal Fee Schedule rather than completely replacement based on an unfounded, relatively arbitrary substitute. I for one would work overtime to that end.

That said, compliance with 8CCR Section 35 must be emphasized regardless of how medical record review is reimbursed or including as a complexity factor. This regulation is outside the scope of the current rulemaking but could be a focus of emergency records as a critical support for any success of the current proposal.

If page count continues to be the basis for reimbursement, payors and providers alike are leery of both sides' motives. Our position is that the burden of proof cannot be upon the medical provider solely. Those submitting records are the primary and best source of verifying the amount of content. Certainly, relevance remains the responsibility of the evaluator. Nevertheless, the expression of the amount of content (i.e., the attestation) has the potential to be awarded standing as the source of billable page count. Evaluators must be provided the opportunity to refute the coversheet if necessary, but using a recognized standard puts responsibility where it belongs.

We register support for the point made by the California Applicant Attorneys Association (CAAA) with respect to the timeframe for qualifying a report as Supplemental. This comment applies whether the current proposal goes forward, or the Division opts to revise the current MLFS. Any number of months is fundamentally arbitrary. Proposing 24 months is clearly nothing more than cost containment. It is an insult and afront to the corps of evaluators – Agreed Medical Evaluators included.

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In fact, both "sides" can abuse even the shortest supplemental report timeframe by simply requesting re-evaluations before the given timeframe for paid supplemental reports is tolled. The longer the timeframe, the greater opportunity for abuse. There is no verifiable basis for 24, 18, 12 or even the current nine months. In the instant case, the critical issue boils down to data that indicates a change is necessary. The Division has produced no such data. Therefore, there is no basis for any change.

Cordially,

Stephen Cattolica

CWCSA

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