

Workers' comp division files proposed rules on medical fees to care providers

Proposal would prohibit PPO contracts with providers, but allow providers to offer discounts

SALEM — A flap over how much insurance companies pay health care providers for treating injured workers in Oregon may soon be over.

Health care providers (doctors, physical therapists and others) began disputing the amounts some insurance companies were reimbursing them for treating injured workers.

Insurance companies argued that they were paying health care providers the amounts spelled out in their preferred provider organization (PPO) contracts. PPOs are popular in the private sector because in exchange for discounted fees, the network directs patients to their practices.

In the no-fault workers' comp system, insurers are suppose to pay medical bills in one of three ways: At the provider's normal fee; at the amount set by law under the Oregon medical fee schedule (if it is less than the normal fee); or at the rate contracted with a provider enrolled in a state-certified managed care organization (MCO). MCO rates typically are lower than both the medical fee schedule and the provider's normal rate. MCOs were allowed into Oregon's workers' comp system as part of a controversial major overhaul in 1990. The state regulates MCOs (all four of them) to ensure that injured workers are getting good care. PPOs are not regulated.

In an attempt to settle the medical fee dispute, Oregon's Workers' Compensation Division initially ruled that the PPO rates should not have been applied, and ordered the insurers to

pay the difference between the PPO discount and the state-mandated fee schedule.

That prompted one of the nation's largest PPOs — Coventry Health Care of Maryland — to threaten to quit doing business in Oregon.

Subsequently, the Workers' Comp Division issued a temporary emergency order that then allowed insurance companies to use PPO rates in workers' comp cases.

The emergency order angered health care providers, who said they would quit taking injured workers as patients if paid the lower rates.

Stuck in the middle of the controversy were injured workers. Organized labor stepped in on their behalf.

Union officials were outraged that the emergency order came with little or no input from them or from management — the two key players in the workers' comp system.

"This ruling is not in anyone's interest — not the state's, not the employer's, and certainly not the injured worker's," said State Rep. Brad Witt, a union rep for United Food and Commercial Workers Local 555 who had already begun preparing legislation to have the emergency order overturned.

After studying the issue and receiving feedback from a variety of parties, the Workers' Comp Division developed the new proposed rules to replace the emergency rules.

Specifically, the new proposed rules do the following:

- Disallow fee discounts for medical services that are part of contracts between providers and PPOs.
- Allow providers to enter into fee discount agreements if they choose.
- Sets requirements for those fee discount agreements, including the following:

1. The agreement must be directly

between the provider and the insurer or self-insured employer and must only apply to workers' compensation.

2. The agreement must be in a standard format and registered with the Workers' Compensation Division.

3. The maximum discount allowed is 10 percent below the medical fee schedule.

4. Either party may terminate the agreement by providing 30 days written notice.

5. Continue to allow discounts to providers as part of managed care organization (MCO) contracts.

6. Continue to allow network discounts for durable medical equipment, ambulatory surgical centers, hospitals (excluding rural hospitals), and prescription drugs.

Bob Shiprack, executive director of the Oregon State Building and Construction Trades Council and co-chair of the Management-Labor Advisory Council on Workers' Compensation, said he is satisfied with the proposal.

"It makes clear what you can and cannot do. It's like we thought it was before the emergency order was implemented," he said.

Public hearings on the proposed rules are scheduled for Nov. 20 at 5 p.m. and Nov. 24, at 1:30 p.m. at the Labor and Industries Building in Salem, and the public is invited to submit written testimony on the rules through Nov. 26. To read the proposed rules, go to: <http://wcd.oregon.gov/policy/rules/rule.s.html#proprules>.

Once the division reviews the public testimony, it will file the final version of the rules, which will take effect Jan. 1, 2009.

For more information or to comment on the rules: Contact Fred Bruyns at 503-947-7717; fax: 503-947-7581; e-mail: fred.h.bruyns@state.or.us

Ridgeline Montessori employees reaffirm AFT representation

EUGENE—Teachers and staff at Ridgeline Montessori Public Charter School again chose the American Federation of Teachers (AFT) as their union representative in mail ballots counted Oct. 29. The election was conducted by the Oregon Employment Relations Board (ERB).

A majority of employees previously chose AFT by signing authorization cards, but the employer refused to recognize them.

Oregon's "card check" law allows union representation without an election if a majority of eligible bargaining unit employees sign union authorization cards. Under this law, even if the criteria are met, employees can still request that the ERB hold an election if 30 percent of the bargaining unit supports having an election. This was the case at Ridgeline Montessori.

"Employees at Ridgeline demonstrated their desire to form a union in September when a majority designated the union with signed authorization cards," said Mark Schwebke, president of AFT-Oregon. "This vote reaffirms the wishes of Ridgeline staff and proves as well that the card-check process accurately conveys the will of the workers."

Some 87 percent of eligible employees participated in the mail ballot election. Nearly two-thirds voted for AFT representation.

Teachers and staff at Ridgeline, which serves over 220 students in grades K-8, formed the Eugene Charter School Professionals to represent them, which is the newest of 20 locals in AFT-Oregon, an affiliate of the AFL-CIO.

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