WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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1987 AUG 14 PM 2:02

OFFICE OF SECRETARY OF STATE

August 14, 1987

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Workers' Compensation Fund TITLE NUMBER: 85

CITE AUTHORITY W.Va. Code, 23-1-13, 23-1-15, and 23-4-3

AMENDMENT TO AN EXISTING RULE: YES___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: VIII

TITLE OF RULE BEING PROPOSED: Medical Fee Schedule

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Nelson B. Robinson Jr.

Nelson B. Robinson, Jr.
Commissioner
Workers' Compensation Fund

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone (304) 345-4000
Corporations 345-8000

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director Administrative Law

DONALD R. WILKES
Director Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

August 14, 1987

PROPOSED RULES

STATE REGISTER FILING

==========

AGENCY Workers' Compensation Fund

CONTACT PERSON William Mitchell PHONE 348-2580

TYPE OF RULE Legislative

TITLE OF RULE Medical Fee Schedule

CHAPTER 23 ARTICLE 4 SERIES VIII

AUTHORITY 23-1-13, 23-1-15, and 23-4-3

++++++++++

CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

[X] NEW RULE

[ ] AMENDMENTS TO EXISTING RULE

[X] REPEAL OF EXISTING RULE

NOTE: ALL FILINGS REQUIRE ONLY ONE COPY, EXCEPT FINAL FILING OF RULES WHICH REQUIRES AN ORIGINAL AND A COPY.

[ ] NOTICE OF HEARING

[X] NOTICE OF AGENCY APPROVAL (legislative rules only)

[ ] NOTICE OF AGENCY ADOPTION (interpretive & procedural rules only)

[ ] FINAL FILING

[ ] FIRST EMERGENCY FILING

[ ] SECOND EMERGENCY FILING

FILED

1997 AUG 14 PM 2:03

SECRETARY OF STATE

FISCAL NOTE FOR PROPOSED RULE

Rule Title: Medical Fee Schedule

Type of Rule: X Legislative ____ Interpretive ____ Procedural

Agency Workers' Compensation Fund Address 601 Morris Street

Charleston, WV 25301

1. Effect of Proposed Rule	ANNUAL Increase	ANNUAL Decrease	FISCAL YEAR Current	FISCAL YEAR Next	FISCAL YEAR Thereafter
Estimated Total Cost	$	$6,800,000	$87,000,000	$80,200,000	$78,420,000
Personal Services	$ 50,000				
Current Expense	$ 25,000				
Equipment	$ 25,000				
Consulting & Contractual Services	$1,800,000				
Savings in Cost of Medical Services		$8,700,000			

2. Explanation of above estimates:

1. COSTS: Initial cost of professional consulting services, computer software programs, systems design, training, implementation, and program maintenance.

2. SAVINGS: Ten per cent of the current total annual expenditures for medical services.

3. Objectives of these rules:

To provide for a modern, on-line computerized capacity for processing and payment of bills for medical services.

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Substantial initial outlay of financial and personnel resources, particularly in areas of management and electronic data processing, to be followed by substantial savings and efficiency.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens:

1. All injured employees in the state will benefit from improved monitoring of authorization for treatment, utilization and delivery of medical services, and reasonableness of the cost thereof.

2. All providers of medical services in the state will benefit from more efficient and more consistent processing and payment of medical bills.

3. All employers in the state will benefit from the economic efficiencies and savings that will be realized and ultimately reflected in the overall cost of workers' compensation coverage.

C. Economic Impact on Citizens/Public at Large:

All citizens will derive the indirect benefit of a more efficient, cost effective statewide benefit program operated in the interest of the health and well-being of the citizens of West Virginia.

Date: August 14, 1987

Signature of Agency Head or Authorized Representative

Nelson B. Robinson, Jr.

Nelson B. Robinson, Jr.
Commissioner
Workers' Compensation Fund

WEST VIRGINIA PROPOSED LEGISLATIVE RULES
WORKERS' COMPENSATION COMMISSIONER
Chapter 23-4
Series VIII

Title: Medical Fee Schedule

Section 1. General

1.1 Scope - These Proposed Legislative Rules shall govern the schedule of maximum reasonable amounts to be paid to physicians, surgeons, hospitals, or other persons, firms or corporations for the rendering of treatment to injured employees.

1.2 Authority - W.Va. Code, 23-1-13, 23-1-15, and 23-4-3.

1.3 Filing Date - August 14, 1987.

1.4 Effective Date -

1.5 Repeal of Former Rule - These Legislative Rules repeal "Section 14, Reports of Examination, Treatment and Payment of Bills" of West Virginia Legislative Rules, Workers' Compensation Commissioner, Chapter 23-1, Series I, Administration of the Workers' Compensation Fund, effective July 1, 1986.

Section 2. Medical Cost Containment System Manual

The Workers' Compensation Fund Medical Cost Containment System Manual is hereby incorporated by reference into these rules. A copy of the manual is enclosed herewith and identified as Appendix A.

Section 3. Periodic Revision

The Workers' Compensation Commissioner may by order add or delete medical procedures, services, supplies, and medications, and may increase or decrease unit values, conversion factors, and maximum allowable fee amounts when and as deemed necessary.

FIRST PAGE OF SERIES CONTAINING SECTION TO BE REPEALED

WEST VIRGINIA LEGISLATIVE RULES
WORKERS' COMPENSATION COMMISSIONER
Chapter 23-1
Series I

Title: Administration of the Workers' Compensation Fund

Section 1. General

1.1 Scope - These Legislative Rules provide for the general administration of the West Virginia Workers' Compensation Fund.

1.2 Authority and Related Code - 23-1-13, 23-2-9, 23-3-1.

1.3 Filing Date - April 15, 1986.

1.4 Effective Date - July 1, 1986.

1.5 Definitions - As used in these regulations:

A. "Claimant" shall mean any individual who files an application for Workers' Compensation benefits.

B. "Filing" shall mean actual receipt in the office of the Commissioner.

C. "Paid" shall mean the time the check is deposited in the mail or presented in person to the claimant, claimant's attorney or anyone acting in his behalf.

D. "Receipt of . . . notice" shall be presumed to have occurred on the third day following the date of the notice. The next day (or the fourth day following the date of the notice) will be treated as the first day of the period during which a protest or appeal may be filed. Should the final day of such period be a Saturday, Sunday or legal holiday (State or Federal), the period shall expire on the next business day immediately following such Saturday, Sunday or legal holiday.

E. "Subscriber" shall mean an employer for whom Workers' Compensation coverage has been effected.

F. "Within fifteen days of the mailing of such copy" shall mean within a fifteen day period beginning with the day immediately following the date of such copy. Should the fifteenth day be a Saturday, Sunday or legal holiday (State or Federal), the fifteen day period shall expire on the next business day immediately following such Saturday, Sunday or legal holiday.

B. The Commissioner, after determining that the claimant has a means of support and the non-accrued benefits are for a period not exceeding 100 weeks, may commute an award of permanent partial disability benefits.

C. Any lump sum payment shall be subject to discount at the rate of 4%, provided, however, that the first 100 weeks of benefits shall not be discounted. The charge to the employer's account shall not be discounted.

Section 14. Reports of Examination, Treatment and Payment of Bills

14.1 Obligation For Submitting Reports

All medical vendors, upon accepting a claimant as a patient, assume an obligation to submit a report of such case to the Commissioner immediately and to make continuing reports. The preliminary report must be made by the medical vendor on a form prescribed by the Commissioner and completed in its entirety. Inasmuch as an attending physician's reports (Form WC-219) of disability are an essential part of each claim, it is extremely important that they be submitted to the Commissioner promptly in order that the claimant may receive his compensation payments regularly during the period of disability. Failure to make reports promptly may result in the delay of payments of benefits to the claimant and payment to the medical vendors for services rendered.

14.2 Periodic Reports

In case of any medical or similar service being rendered during a period longer than a month, the attending medical vendor must file with the Commissioner a narrative report upon request indicating the progress of the injured employee. Completion of Form WC-219 (Attending Physician's Report) will not satisfy the requirement of a narrative report. If such reports are not made when requested by the Commissioner, payment for services may be withheld until such report is submitted.

14.3 Signature of Medical Vendor is Required

Medical reports and fee bills must be signed by the medical vendor rendering the services or his authorized representative with the name in legible printing or typing beneath the signature.

14.4 Payment for Appearance at Hearings

A medical vendor appearing at a hearing to give testimony

WORKERS' COMPENSATION FUND

601 MORRIS STREET
CHARLESTON, WEST VIRGINIA 25301

ARCH A. MOORE, JR.
Governor

NELSON B. ROBINSON, JR.
Commissioner

MEMORANDUM

TO: Secretary of State
Legislative Rule-Making Review Committee

FROM: Nelson B. Robinson, Jr., Commissioner

DATE: August 14, 1987

RE: Agency Approved Proposed Legislative Rules
Title: Medical Fee Schedule

Attached hereto are copies of the public comment received during the comment period.

The majority of the comments received were general in nature, in most cases expressing either displeasure or satisfaction with the prospect of promulgation of a fee schedule. Some physicians, primarily orthopedic surgeons and chiropractors, indicated a desire that they be afforded additional opportunity to participate in the final determination of the specific fee amounts to be established. Some physicians also expressed concern about the establishment of fees by rule, because of the fear that the Commissioner would not be able, in the future, to promptly adjust the fees in accordance with the rapid evolution in medical technology, inflation, etc.

After review and consideration of all the comments, the proposed rules were not amended.

NBRJr:WM:cm

Enclosures

Athletic & Physical Therapy Services, Inc.

1902 Harper Road
Beckley, West Virginia 25801
(304) 253-7246 & 253-PAIN

Frank H. Adams, P.T.
John Beasley, P.T.

July 2, 1987

John F. Leaberry
WV Worker's Compensation Fund
POE 3151
Charleston, WV 25301

Dear Mr. Leaberry:

I have the following comments to make on the Cost Containment System. First of all, steps should be taken to eliminate the unlicensed practice of Physical Therapy. West Virginia State Law contains no provisions for those without a license to practice Physical Therapy.

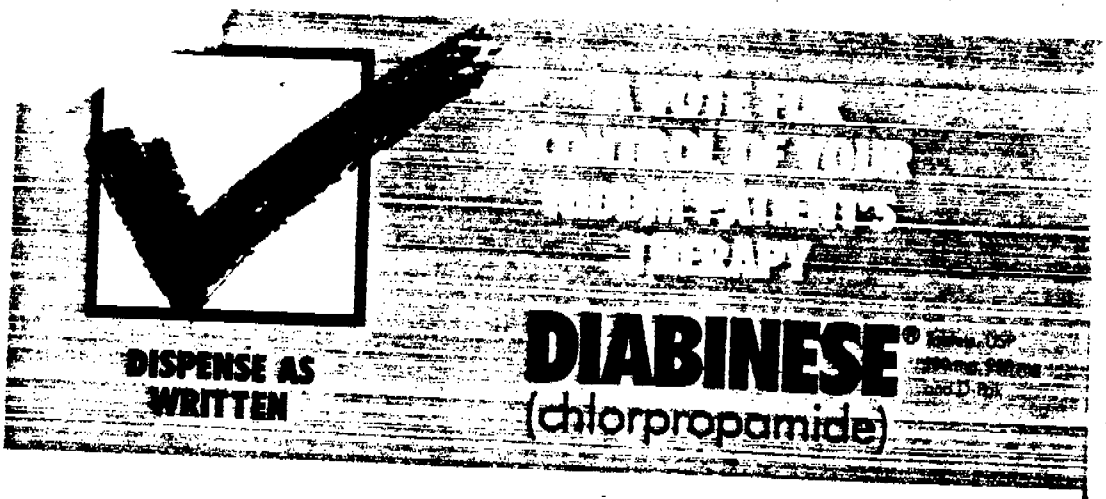
The second step is to eliminate the abuse of overcharging on the current fee schedule. We have no problems with the Alpha Code system as is being currently used.

Sincerely,

John Beasley, P.T.

Frank H. Adams, P.T.

cc: file



Simons Pharmacy
Box 700
Gauley Bridge, WV 25085

7-2-87

Thank you for soliciting our comments.

Under your present proposals for re-imbursement we will not participate in your program.

The fees are arbitrarily low and in the present day economy we cannot allow funds from our business that do not in turn bring back a return. Your program would be a cost to to us not a profit.

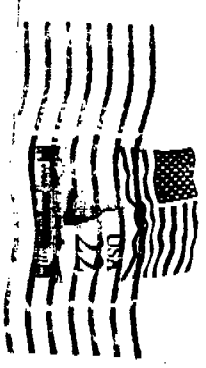
We suggest you use the formula being used by UMWA whereby Pharmacies are allowed to mark up prescriptions 25% of the AWP.

Sincerely

Lynn Simons

Lynn Simons, Pharmacist

RECEIVED
JUL 06 1987
LEGAL DIVISION
W C F



ORTHOPAEDIC ASSOCIATES, INC.

RICHARD H. SIBLEY, M.D.
MICHAEL O. FIDLER, M.D.

3100 MacCORKLE AVENUE, S.E
CHARLESTON, WEST VIRGINIA 25304
(304) 343-8846

DIPLOMATES,
AMERICAN BOARD OF
ORTHOPAEDIC SURGERY
MEMBERS
AMERICAN SOCIETY
FOR SURGERY OF THE
HAND

June 5, 1987

Mr. John F. Leaberry, Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Dear Mr. Leaberry:

Today I received the Workmen's Compensation fee schedule that is to take effect June 15, 1987. My bookkeeper spent the last several hours going over this book and the results of that review prompts this letter. I have discussed this with Mr. Farley, who may have communicated with you but I wish to express my opinions directly.

The fees dictated in this fee schedule are way below the usual, customary, and reasonable charges of this office and way below what our regular patients pay. This certainly is not satisfactory. Workmen's Compensation patients in general are considered as private patients who have employer paid insurance to cover their medical injuries. To expect these injuries to be treated at rates of compensation that are often 25, 50 or at most 75 percent of the fees that private patients pay is absurd. In general, patients that are injured on the job and fall under the state's Workmen's Compensation laws are difficult patients to treat and are frequently demanding and with voluminous paperwork and multiple special requests. They take much more time than private patients and yet we have treated them at our usual and customary fees. This office will not be willing to continue to treat Workmen's Compensation patients other than life or death emergencies if we are not compensated similar to our other patients.

As of June 15, 1987 which is the effective date of your mandatory fee schedule, this office will no longer be willing to accept Workmen's Compensation referrals unless they have a life or death emergency.

I hope you will take this letter seriously and give it your urgent attention. The physicians of this state have had a close working relationship with the commission inspite of the difficulties entailed with the care of many difficult patients. I would appreciate a response from you as soon as possible so that there can be some resolution to this problem without patients being inconvenienced in their search for a physician.

Sincerely,

Richard Sibley

Richard H. Sibley, M. D.

RHS:zag

xc: Mr. John Farley

JOHN A. BELLOTTE, M.D. FCCP
#4 HOSPITAL PLAZA
SUITE 106
CLARKSBURG, WEST VIRGINIA 26301

Telephone 624-4654

June 9, 1987

Mr. John F. Leaberrry
Commissioner
WV. Workers' Comp. Fund
P. O. Box 3151,
Charleston, WV. 25332

Dear Mr. Leaberry:

I recently reviewed the payment schedule for the Workers' Compensation Fund and most of the fees are acceptable as payment in full. However, as a Pulmonary Physician, I am occasionally called upon to perform a Flexible Fiberoptic Bronchoscopy. These procedures are being reimbursed at a rate which is less than 25% of Medicare Reimbursement. I was wondering if you could review these prices and see if an error has been made in these determina;tions.

Sincerely,

John A. Bellotte M.D.

John A. Bellotte, M. D. FCCP

JAB/emm

Orthopedic Surgery

Office Hours
By Appointment

STEPHEN I. LESTER, M.D., P.C.
301 ORCHARD STREET
ELKINS, WEST VIRGINIA 26241

Telephone 636-9305

June 12, 1987

Mr. John F. Leaberry
Commissioner West Virginia
Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Dear Mr. Leaberry:

We just recently at our office, received your fee schedule for Workers' Compensation cases and we have had a chance to briefly review the method of reimbursement on these cases. Since the fee schedule is due to go into effect on June 15, 1987 and we have had scarcely more than a week to review this, I think it is appropriate if we refuse to care for any new cases under the revised Workers' Compensation system in West Virginia. I feel that my fees to Workers' Compensation have always been reasonable and in fact, on your new fee schedule my charges for certain procedures are considerably less than what will be reimbursed. However, other fees are considerably less than what my charges are.

Since our malpractice costs have been soaring every year and it is impossible to predict how much the insurance will cost. I am opposed to a set fee schedule for reimbursement for any procedures. In my charges to Workers' Compensation, I feel that I have always been fair and reasonable and would continue to be so. In view of the extra work that is required in taking care of Workers' Compensations patients, the difficulty of getting these people back to work, the multiple forms and updated medical reports that are required without any further reimbursements; I feel that the Workers' Compensation Fund of the State of West Virginia is fortunate that the physicians of this state do not charge a premium of 10 or even 20 percent additional above our usual and customary charges for caring for patients under this system.

I will continue to care for the patients already under my care under the Workers' Compensation Fund, but will not be able to accept new cases under this system.

Sincerely,

Stephen I. Lester, M.D.

SIL/ear

RUDOLF K. LEMPERG, M.D., PH.D.
ORTHOPEDIC SURGEON
MEDICAL ARTS CENTER, SUITE 105
2010 OATES DRIVE
MARTINSBURG, WV 25401
(304) 263-1830

June 24, 1987

John F. Leaberry, Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Leaberry:

I received the fee schedule which Workers' Compensation Fund has produced and which is thought to take effect on June 15, 1987. I have compared the fees which you try to dictate us with the fees which are customary for this office and find a number of large discrepancies. Some of these fees are unreasonable from my point of view since the majority of workers' compensation patients have a very long aftercare time and do not recover as quickly as normal private patients do and a lot of complicated letters have to be written and much time has to be spent with arguments concerning employment problems. Moreover, large efforts have to be made to get these people back to work.

I am not willing to accept this kind of handling and certainly not dictating my fees for services which I do not need to render if not compensated for properly. If you intend to force on me these fees, I will not include cost for any after treatment and I will charge for every letter and for every kind of paperwork which is associated with the treatment of patients on account for Workers' Compensation Fund.

Moreover, I would like to remind you that our liability insurance has been increased by 100% during the last year. I cannot see how this is compatible with a decrease of fees with about 50% in many cases which you intend to pay to us. Perhaps you will also need to understand--as other insurance carriers--that at the very end liability insurance has to be paid by the public and not by the doctors.

I hope that you will take this letter seriously and not just put it into your wastebasket. It would be reasonable if you would consider a solution to this unilateral action from your side because otherwise our cooperation will terminate and this will not be in the very best interest of your insured.

Sincerely,

Rudolf K. Lemperg, M.D., Ph.D.

RKL/dkg

West Virginia University

Department of Orthopedic Surgery
304 293-3908
WVU Medical Center
Morgantown, WV 26506

June 29, 1987

Mr. John Leaberry
Commissioner
Workers' Compensation Fund
P.O. Box 3151
Charleston, WV 25332

Dear Mr. Leaberry:

I just heard that there is a proposed new Workers' Compensation Fee Schedule and I am writing to find out if this is true and if it is true to find more information concerning this. I have long been concerned that Workers' Compensation Fund is a perfect example of an idealistic concept that has been misused and abused both by patients and physicians in reality.

It is my hope that if the new Workers' Compensation Fee Schedule is indeed being considered in an attempt to decrease the cost that two aspects of the program will be taken into account: 1) Our standardization of physician procedures and fees and the necessity of a second opinion before surgery can be performed. Second and more important, I feel that both the frequency of physician visits and the duration that a claim may be held open by the injured worker must be decreased. I see abuses of the system on a daily basis by patients who view it as nothing more than a free ride. Again idealism has given way to realism.

I anxiously await your comments and any information you have on this subject.

Sincerely,

J. Abbott Byrd, III, M.D.
Chief, Section of Spinal Surgery

JAB/njt

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 25, 1987

JUL 06 1987

W. VA. WORKERS' COMPENSATION FUND

As you know, notice was previously served that the Workers' Compensation Fund Medical Cost Containment System would become effective June 15, 1987.

On June 9, 1987, the West Virginia Chiropractic Society, Inc. and the West Virginia State Medical Association filed a legal action against the Fund in the Kanawha County Circuit Court, petitioning the Court to prohibit the Fund from implementing the system. The Court ruled in favor of the petitioners, barring implementation.

For the foregoing reason, the system has not yet become effective. It will be implemented in the future, and specific notice of developments will be provided.

Although the system is not yet in effect, all the documents and information that you have received pertaining to the system should be retained. More importantly, the Billing Instructions contained in the M.C.C.S. Manual **must be followed** with regard to (1) forms to be used, and (2) completion of such forms, and (3) submission of required supporting information.

Provisions of the M.C.C.S. Manual relating to fee limits, authorization for treatment, and other matters are **not in effect**. Those matters are still governed by the rules that have been in effect for several years.

This unanticipated development will affect the Fund's capacity to process and pay bills for medical services. Please be assured that this agency will do everything within its ability to process payments as expeditiously as possible. Until these unfortunate circumstances have been resolved, your patience and cooperation will be appreciated.

Very truly yours,

John F. Leaberry

John F. Leaberry
Commissioner

06/30/87 STAMPED SIGNATURE WILL BE USED ON MY BILLINGS.

Eduardo P. Pagata, M.D.

DR. EDUARDO P. PAGATA, M.D.
984 PEN DOLE AVE.
P. O. BOX 85[illegible]
TAZEWELL, VA 2465[illegible]
TELEPHONE 703-[illegible]-5[illegible]

S. L. STILLINGS, M.D.
204 MAIN STREET
MANNINGTON, W. VA. 26582
TELEPHONE: 986-1440

JUL 06 1987

July 3, 1987

Workers Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Re: Medical Fee Schedule

Dear Mr. Leaberry:

I am writting, in regards for your wish for comment, concerning the Medical Fee Schedule.

I feel, that it is grossly unfair for West Virginia Workers Compensation to dictate to the physicians, what he or she may or may not charge. I know that there are some physicians who charge compensation or insurance companies for that manner outrageous fee's. I charge what I feel is a fair price, each time you have a patient, who comes in to the office injured, you must stop seeing other patients and treat the injured right away. Therefore, I feel that Compensation should review each bill they receive separately, instead of setting guidelines.

Sincerely:

S.L. Stillings M.D.

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

This is notice of another development in the establishment of the Workers' Compensation Fund Medical Cost Containment System.

The Medical Cost Containment System Manual was filed in the State Register as a Proposed Legislative Rule on June 29, 1987. Also, the following notice was filed, giving an opportunity for public comment upon the proposal. We invite your comments and advice concerning this matter.

* * * * *

NOTICE OF COMMENT PERIOD ON PROPOSED RULE

AGENCY: Workers' Compensation Fund

RULE TYPE: Legislative

RULE TITLE: Medical Fee Schedule

A Comment Period on the above Proposed Rule has been scheduled. The period begins this date and will end on July 31, 1987 at 5:00 p.m. Only written comments will be received. Comments are to be mailed or delivered to the following address:

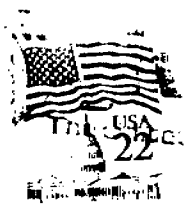
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

John F. Leaberry
Commissioner

7/5/87

Please send me a copy of the proposed rule

JAMES W. LANE, M.D.
MEDICAL CORPORATION
CAMC MEDICAL STAFF OFFICE BUILDING
3100 MACCORKLE AVENUE, S.E.
CHARLESTON, WEST VIRGINIA 25304



Workers' Compensation Fund
601 Morris Street
Charleston,
West Virginia 25301

COMBUSTION ENGINEERING

July 2, 1987

Mr. John F. Leaberry, Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Commissioner Leaberry:

Please send me a copy of the Medical Cost Containment System Manual which was filed in the State Register as a Proposed Legislative Rule on June 29. 1987.

If we have comments after reviewing the Manual, they will be mailed to you prior to the deadline of July 31, 1987.

Sincerely,

Kay H. Holliday

Kay H. Holliday
Director Human Resources

KHH/pg

Combustion Engineering, Inc.
Process Analytics

843 Jefferson Street
Post Office Box 831
Lewisburg, West Virginia 24901

Tel: (304) 647-4358
TWX: 710-938-1501
Telex: 907033

Robert P. Pulliam, M.D.
343 WESTWOOD DRIVE
BECKLEY, WEST VIRGINIA 25801

July 2, 1987

Arch A. Moore
Governor
State of West Virginia
Capitol Building
Charleston, West Virginia 25300

Dear Governor Moore:

Under the leadership of past Workmen's Compensation Commissioner, Mary Martha Merritt, the Workmen's Compensation Fund came into the 20th Century by accepting the standard hospital claim insurance form HCFA1500. This is a form accepted by all insurances for which there are standard definitions.

Since the new Commissioner has come in, Workmen's Compensation has modified that form to include their definitions, not standard acceptable definitions. This places an extreme burden on all computer programs in medical offices and requires entire reprogramming now that Workmen's Compensation has redefined for their purposes the meaning of the columns on the standard hospital insurance claim form. To me, this shows a gross misunderstanding by the new Commissioner of what the standard hospital claim form is designed to do and places an increased burden, unnecessary burden, on practicing physicians and their office.

It would seem to me that what would need to be done is that the present Commissioner should understand what the form is, why it is designed as it is, and what the standard definitions are and should accept those definitions as do all other insurance companies including State Department of Human Services.

I realize that the likelihood of getting any attention from State Government to this problem is not great, but am writing you to express my displeasure with arbitrary decisions made by a Commissioner who has obviously little or no knowledge of standard health insurance claim forms.

Thanking you, I am

Sincerely yours,

Robert P. Pulliam, M.D.

RPP/jm
7-2-87
Copy/Commissioner
WV Workmen's Compensation Fund
P.O. Box 3151
Charleston, WV 25332

SCOTT, CRAYTHORNE, LOWE, MULLEN, FOSTER & HEGG, INC.

Orthopedic Surgery & Rehabilitation

2828 FIRST AVENUE, SUITE 400 P. O. BOX 3127
HUNTINGTON, WEST VIRGINIA 25702
TELEPHONE 304 - 525-6905

2000 CARTER AVENUE
ASHLAND, KENTUCKY 41101
TELEPHONE 606 - 329-0456

3 WOODLAND PLACE U.S. 23 SOUTH
PAINTSVILLE, KENTUCKY 41240
TELEPHONE 606 - 789-8442

FRANCIS A. SCOTT, M.D.
(1929-1974)

THOMAS F. SCOTT, M.D.
COLIN M. CRAYTHORNE, M.D.
ROBERT W. LOWE, M.D.
JOHN O. MULLEN, M.D.
EARL J. FOSTER, M.D.
KYLE R. HEGG, M.D
DANIEL E. CARR, M.D.

Arthritis Clinic
Foot Surgery
Hand Surgery
Medical/Legal Evaluation
Physical Therapy
Scoliosis Clinic
Sports Medicine Clinic

June 29, 1987

John Leaberry & John Farley
Commissioners
Workmen's Compensation Fund
Box 3151
Charleston, West Virginia 25332

Dear Sirs:

This letter is to voice my displeasure with the unilateral action taken on the part of the Workmen's Compensation Fund with regard to fee schedules.

As an orthopedic surgeon, I see Workmen's Compensation type injuries daily on a regular basis. The fact that there has been a unilateral cutting of fees with no input from the involved physicians or any sort of hearing process is grossly unfair. I understand that there is a court order interrupting this for the time being and, I believe that before any fee schedule such as this is put into effect, there needs to be adequate input from all parties involved, particularly orthopedists who tend to see a high percentage of the injured workers.

If the fee cuts are quite substantial, I believe that many orthopedists would seriously consider whether it is worth their time to treat these injured workers for a significantly lower fee. The Workmen's Compensation patient tends to be among the most difficult to treat for a variety of factors that often times do not have much to do with their injury. Due to this fact, there comes a point where some people decide that it may not be worth it. This, of course, would be to the detriment of the Workmen's Compensation system in this State, to the workers, and also to the working environment of this State.

I strongly urge you to reconsider. I understand that the Fund has significant financial problems and I believe at least a portion of this could be dealt with by having somewhat more restricted eligibility requirements and better systems of auditing and checking for validity of claims. It is my understanding that West

Virginia ranks in the top several in terms of Workmen's Compensation benefits and perhaps this may be one other direction to approach the financial crisis of the Fund.

Thank you for your attention. If you have any questions, I would be more than happy to correspond with you.

Sincerely,

Kyle R. Hegg, M.D.

KRH/rgb

CC: Stephen I. Lester, M.D.
301 Orchard Street
Elkins, West Virginia 26241

Bill

DAVID A. SANTROCK M.D. inc.

415 Morris St. Suite 306
Charleston, W.V. 25301
(304) 346-0439

July 6, 1987

Mr. Nelson Robinson, Commissioner
West Virginia Workers' Compensation Fund
Post Office Box 3151
Charleston, West Virginia 25332

Dear Commissioner:

In response to Mr. Leaberry's June 21, 1987 Memorandum, I would like to offer following brief comments:

I fully understand the necessity of considering fiscal cutbacks and recognize that the Commission has probably been the victim of over-utilization, as well as indiscreet abuses by certain members of the "medical" community. However, as is so often the case, corrective measures often penalize those who are least deserving, in this instance, quality physicians.

In consideration of our most liberal Compensation benefits, I cannot accept the new few schedule which solely directs fiscal restraints toward health suppliers with no effort whatsoever to exert control over the frequently outlandish and inexcusably liberal benefits afforded employees who, in many instances, are marginally entitled to the benefits awarded them. Furthermore, I see no evidence that an effort is being exerted toward upgrading the mandatory periodic review system to determine the proper time to discontinue benefits. I dare say that if the employees' benefits were significantly reduced and/or under closer scrutiny, one would not only witness a more willing and rapid return-to-work, but a substantial reduction in the overall expenditures of the Commission.

Unless an effort is forthcoming wherein both providers and receivers of the benefits of the Workers' Compensation Commission share alike in making sacrifices, I intend to restrict my services to those of an emergency nature only.

Sincerely yours,

David A. Santrock, M.D.

DAS:csb

PEDRO N. AMBROSIO, M.D.
ERLINDA B. CORPUZ - AMBROSIO, M.D.
300 HOSPITAL DRIVE
SPENCER, WEST VIRGINIA 25276
TELEPHONE 927-2913

July 6, 1987

Worker's Compensation Fund
601 Morris St.
Charleston, WV 25301

Dear Sir:

We have gone over the Medical Fee Schedule that we received just last week for review and got your notice for the commentary on July 3, 1987. We were really amazed at the cutback in the costcontainment that your office has proposed. It is like giving free service with more paperwork headache for us. Let us just make an analysis of your fee schedule - for :

Code # 90220 - 18.50 Comprehensive history and examination, initiation of diagnostic and treatment programs, preparation of hospital records. It takes anywhere between half an hour to an hour to do a complete physical exam with dictation of your history and physical, sometimes depending upon how complicated the case is longer. It will take the office personnel anywhere between 5-10 minutes to do the billing and we wait for payment anywhere between 6 weeks or more, then when the payment comes in it will again take anywhere between 15- 20 minutes to work out the payment, not taking into account the expense of mailing it and or the wait if the fund has anymore questions to be answered and another letter will be written out. Between the billing and working out the bill when it comes in we already have paid the help that much money to be paid by that fee - which means that the physician has not had any fee at all. In other words we have not had any money left to help pay for the malpractice insurance and the time the physician himself has put in to treat the patient . I pay more to a plumber or an electrician that comes and repairs things at home for the labor they render me than I am paid for a service I do.
Code # 11740 - evacuation of subungual hematoma - 0.30 ? Is that 30 cents for the procedure? This is unbelievable, someone must have made a mistake.

I think the fee schedule should be readjusted and be more sensible. If the fund is willing to pay for all the malpractice premiums and the overheads we incur, I don't mind receiving your proposed fee. Let's have a more livable fee schedule than what you came up with - I will be willing to help work on this.

Thank you very much for anyconsideration in readjusting this schedule.

Sincerely,

Pedro N. Ambrosio M.D.
Erlinda B. Corpuz-Ambrosio M.D.

PNA/ECA/eca

JOSEPH EDWARD SCHREIBER, D. O.
3125 PENNSYLVANIA AVE.
WEIRTON, WEST VIRGINIA 26062
TELEPHONE 723-2800

7-2-[illegible]

To Health Care Fund

I received this today. I have not received any proposal regarding related Fee Schedule. Please send [illegible]

Thank you,
[illegible signature] DO

MEREDITH ROHANI, M.D.
2000 HARPER RD.
BECKLEY, WV 25801

TELEPHONE: (304) 252-8002

Medical

July 6, 1987

Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Gentlemen:

In reply to your letter of June 30, 1987, concerning the Medical Cost Containment System, I believe this is a good idea that we have an established fee schedule we can go to without hassles. However, I believe this schedule should be fair to both parties and should correlate with the increase of the physician's office overhead and especially the tremendous increase in liability insurance in order for the physician to be able to stay in practice.

Sincerely,

Meredith Rohani, M.D.

MR:th

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

This is notice of another development in the establishment of the Workers' Compensation Fund Medical Cost Containment System.

The Medical Cost Containment System Manual was filed in the State Register as a Proposed Legislative Rule on June 29, 1987. Also, the following notice was filed, giving an opportunity for public comment upon the proposal. We invite your comments and advice concerning this matter.

* * * * *

NOTICE OF COMMENT PERIOD ON PROPOSED RULE

AGENCY: Workers' Compensation Fund

RULE TYPE: Legislative

RULE TITLE: Medical Fee Schedule

A Comment Period on the above Proposed Rule has been scheduled. The period begins this date and will end on July 31, 1987 at 5:00 p.m. Only written comments will be received. Comments are to be mailed or delivered to the following address:

Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

AARON D. COTTLE, M.D.
320 MARKET STREET
SPENCER, WEST VIRGINIA 25276

John F. Leaberry

John F. Leaberry
Commissioner

Please send me a copy of your Medical Fee Schedule. Thanks!

CARNEGIE
NATURAL
GAS
COMPANY

800 REGIS AVE
PITTSBURGH PA 15237
(412) 655-8510

July 7, 1987

Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Re: **Comment on proposed Medical Fee Schedule Rule**

Gentlemen:

Due to the fact that the Legislation of West Virginia governs the rules and regulations of the West Virginia Workers' Compensation Fund, we believe they should determine the outcome of the Fund implementing the Medical Cost Containment System, which in our opinion is long overdue.

Our understanding is that the figures in this system have been compounded from across the nation. The long term outcome should be very beneficial to all parties involved. We are all aware of the soaring costs of medical care and we should work together to cut these costs and establish an equal balance.

We look forward to the Fund implementing the Medical Cost Containment System.

Very truly yours,

CARNEGIE NATURAL GAS COMPANY

T. F. Myslinski
Vice President of Engineering
and Operations

cc: T. T. Kobil
J. C. Stephenson

ADNAN N. SILK, M.D.
DIPLOMATE AMERICAN BOARD OF NEUROLOGICAL SURGERY
NEUROSURGERY - MICRO-NEUROSURGERY
TELEPHONE: (304) 255-0096

BECKLEY NEUROSURGICAL CLINIC
HARPER PROFESSIONAL CENTER
1842 HARPER ROAD - P. O. BOX 1722
BECKLEY, WV 25802

July 2, 1987

Mr John F. Leaberry
Commissioner
Workers' Compensation Fund
601 Morris St.
Charleston,WV 25332

Dear Mr Leaberry:

As a practicing Neurosurgeon in Beckley, I am extremely disturbed by the cost containment proposal which is scheduled to be implemented by Workers' Compensation Fund in the near future. A proposal by WCF to cut fees as other insurance companies have done would make me very reluctant to continue seeing patients who are covered under this program.

As you are aware, most of the patients who sustain head and/or spinal injuries require long term care and if the proposed schedule makes drastic reductions, I will feel no obligation to treat this type patient.

Sincerely,

Adnan N.Silk,M.D.

ANS/gl
cc:Files

CLEMENTE DIAZ, M.D., P.C., INC.
AVENUE A
RICHWOOD, WEST VIRGINIA 26261

TELEPHONE 846-2664

July 8, 1987

Workers Compensation Fund
601 Morris Street
Charleston, W.Va. 25301

Dear Commissioner:

As a physician in Richwood, W.VA. I see a large number of compensation cases. The main complaint I have regarding the new rules is the one preventing patients from buying drugs in my office. In the past the local pharmacies have required the patients to pay for their drugs and send in their receipts for reimbursement. This creates a hardship on some of these patients as some of these drugs are quite expensive and they don't always have the money to pay for them. We have kept some drugs in our office in the past and dispensed them to our Compensation patients and billed you directly rather than ask the patients to pay. As you can see in the records I have tried to keep the amount of medications at the minimum.

I understand the rule is to contain the cost for the compensation fund but I believe in the long run these patients will be on compensation for longer periods of time due to lack of funds to purchase medications prescribed for them. My suggestion is to restore administration of medications by the physician and that these medications be monitored closely for overuse.

Sincerely yours,

Clemente Diaz, MD

CD/pw

NEUROLOGICAL ASSOCIATES, INC.

Neurological Surgery
Alfredo C. Velasquez, M.D.
C. Y. Amores, M.D.
Robert J. Clubb, M.D., Ph.D., F.A.C.S.
John H. Schmidt, III, M.D.

Suite 400
General Medical Pavilion
415 Morris Street
Charleston, West Virginia 25301
(304) 344-3551

Neurology
Curtis E. Wilmore
J. D. Teodoro

June 16, 1987

Nelson Robinson
Box 3151
Charleston, WV 25332

Dear Mr. Robinson:

This letter is in follow-up of our telephone conversation of June 16, 1987. Part of what I will say will be in repetition, but this is for the purpose of your being able to use the letter as part of the overall hearing process for this change that is contemplated for the entire Workers' Compensation program.

In the first place, there is a signficant reluctance on the part of many physicians to treat patients in the Workers' Compensation system. Many orthopedists, rheumatologists, and other physicians refuse to see Compensation patients at all. In general, this represents the perception that the population of Compensation patients constitutes a very unrewarding group. The group is largely made up of patients who are unappreciative of the efforts of physicians to render health care. In addition they, generally speaking, do quite poorly regardless of efforts made at therapeutic measures. My own experience in a large part, supports this assessment. In particular, no matter what is done for these patients, they do not do well from the standpoint of returning to work or from the standpoint of rendering to the physician the appreciation that, indeed, the physician's efforts at treatment were successful. Physicians are human like everyone else and do take pride and pleasure from a feeling that therapeutic measures are successful. To a large extent, the Compensation population deprives the physician of this satisfaction and thus, they constitute a group of patients who are relatively shunned by the physicians as a group.

In addition, this group of patients require efforts in addition to the usual population of patients both from the standpoint of the physician and his secretaries. Additional paperwork is required. Many patients carry with them the requirements that physicians attend Compensation hearings for which they are inadequately compensated. In many circumstances, treatment of these patients entails dealings with attorneys and at present, given our medical legal climate, this represents an onerous aspect of the practice.

Such a reluctance on the part of the medical profession to treat Compensation patients resides within the background of the current [illegible] provided by the Workers' Compensation

That is to state, at present at least, the Workers' Compensation system reimburses the physician according to his own customary fees without any discounting. Again, let me emphasize that despite this 100% reimbursement, many physicians still are reluctant to treat Compensation patients and indeed refuse to do so. Based upon my discussion with you and upon perusal of the proposals as outlined in your prospectus, further disincentives toward treating Workers' Compensation patients are forthcoming. In the first place, my own review of purposed fees, which will compensate me for my efforts, indicates that I will be forced to take a 25-30% cut in fees. Such analysis applies to the more common procedures and services rendered to Compensation patients. In addition to that, I will be forced to have additional demands placed on my time for such things as utilization and review, pre-admission certification, obtaining second opinions, etc. I assume that such decrements in the reimbursement policies will also apply to other surgical fields in addition to my own. Thus, the degree of refusal to treat Compensation patients can only become worse rather than better under this circumstance.

While I understand the need to develop ways of getting the expenditures for medical care that are underwritten by the Fund under control, I feel that a wholesale reduction in fees is not the proper way to do this. In the first place, if you totally eliminate physician's fees, you will still be faced with 75 or 80 percent expenditure rate which applies to services which are not directly paid to the physician. Thus, your absolute maximum savings will be 20 percent, if you pay physicians absolutely no money. Of course, in that circumstance, you will be faced with attempting to find other practitioners to manage the tremendous amount of money that is involved in the remaining 80 percent. I would venture to say that the skills involved in managing this amount of money will be significantly less than will be the situation of having the care rendered by physicians who are qualified to deliver it. Obviously this is an absurd concept, but it does serve to illustrate the fact that you can only cut expenditures by a finite amount by cutting doctor's fees. Of more importance, is the fact that a reduction in fees will result in a relative curtailment of the availability of services by physicians who are genuinely qualified to render state of the art and prudent care to the injured people in the Compensation system.

Naturally, you will have practitioners who will still render the care. It will be up to you to decide whether or not you want the care to be rendered by quality individuals who also practice cost effective medicine versus less than quality individuals who will end up costing the Workers' Compensation Fund more money.

Thus, you should ask the critical question to yourselves: Do you indeed desire to reduce the fees of quality physicians 25% across the board without concern for the potential consequences? If you do so, please be up front and honest with us so that we can at least make an intelligent set of decisions based upon this draconian measure. From a personal standpoint, I will certainly give strong assessment to my overall position in medical practice and will be seriously considering trading this unhappy part of my practice for more leisurely endeavors.

While I strongly disagree with the concept of the fee schedules as outlined by you, I have considerably less difficulty with the concept of a new utilization system and quality assurance system. I totally agree that the cost of the Workers' Compensation system medical expenses is out of line. From the same standpoint, perhaps, other aspects of the medical care delivery system have similarly have been out of line. I feel that significant savings can be accomplished without sacrificing quality care by more strict utilization, especially of surgery. I certainly do agree with the concept of second opinions from the standpoint of surgery until you have established that there may be practitioners performing the surgery that no longer require such utilization review. At that point, for those individuals, second opinions would just entail added expense needlessly. However, until that is established second opinions for surgery would help prevent needless surgery from being performed. In my opinion, the incidence of needless surgery is fairly high in the Workers' Compensation system. I feel that preadmission screening and same day admissions, etc. are all within the realm of reason. In my opinion, the savings from these measures will far exceed the savings from a draconian cut in individual doctor's fees. If you preserve the current fee schedule or some approximation of the current fee schedule for physicians, and engage in these other cost saving devices, your overall savings will be substantial and you will not be sacrificing the quality of health care delivery.

Prior to instituting this system, I can only encourage you to examine the health care delivery system which has been outlined by Union Carbide through Aetna. In the first place, they are not attacking reasonable doctor's fees and are not setting up a fee schedule and furthermore are not requiring discounting of fees. On the other hand, they are taking very stringent measures toward restricting utilization, including second opinions, same day admissions, utilization screening, etc. In their system the professional relationship between patient and doctor is preserved and doctors are not being required to discount fees. On the other hand, it is their opinion and experience that they have been able to create a substantial savings in the cost of health care delivery without sacrificing the doctor-patient relationship or quality of care. I could only encourage that you study their system and perhaps consider its institution instead of the system that you are currently contemplating.

I do appreciate your attention to my letter. I will be happy to discuss matters with you further. In any event, please keep this letter in context of all the other letters which you have received. In particular please note that you are contemplating a 25% cut in my personal fees. This results is fees being significantly lower than those which are paid by Medicare. I can only ask of you whether or not you can stare into my eyes personally and say that you are going to cut my fees 25% without any real basis for this cut. Once again thank you for your attention.

Sincerely,

R.J. Clubb, M.D., Ph.D., F.A.C.S.

RJC/bjw

JOSEPH B. REED, M.D., A.B.F.P.
93 WEST MAIN STREET
BUCKHANNON, WEST VIRGINIA 26201-2297
TELEPHONE 304-472-6041

July 7, 1987

Worker's Compensation Fund
601 Morris Street
Charleston, W.V. 25301

Dear Sir:

Please send me a copy of your medical fee schedule on which you are asking for comments. So far I have only received notice of a comment period but no copy of the fee schedule.

Sincerely,

Joseph B. Reed, M.D.

JBR/cb

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

This is notice of another development in the establishment of the Workers' Compensation Fund Medical Cost Containment System.

The Medical Cost Containment System Manual was filed in the State Register as a Proposed Legislative Rule on June 29, 1987. Also, the following notice was filed, giving an opportunity for public comment upon the proposal. We invite your comments and advice concerning this matter.

* * * * *

NOTICE OF COMMENT PERIOD ON PROPOSED RULE

AGENCY: Workers' Compensation Fund

RULE TYPE: Legislative

RULE TITLE: Medical Fee Schedule

A Comment Period on the above Proposed Rule has been scheduled. The period begins this date and will end on July 31, 1987 at 5:00 p.m. Only written comments will be received. Comments are to be mailed or delivered to the following address:

Workers' Compensation Fund

601 Morris Street

Charleston, WV 25301

John F. Leaberry

John F. Leaberry
Commissioner

RADIOLOGY ASSOCIATES - BRISTOL, P.C.
SUITE 100, PROFESSIONAL PARK
393 ELECTRIC AVENUE
BRISTOL, TENNESSEE 37620

RECEIVED
JUL 09 1987
LEGAL DIVISION
WCF

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

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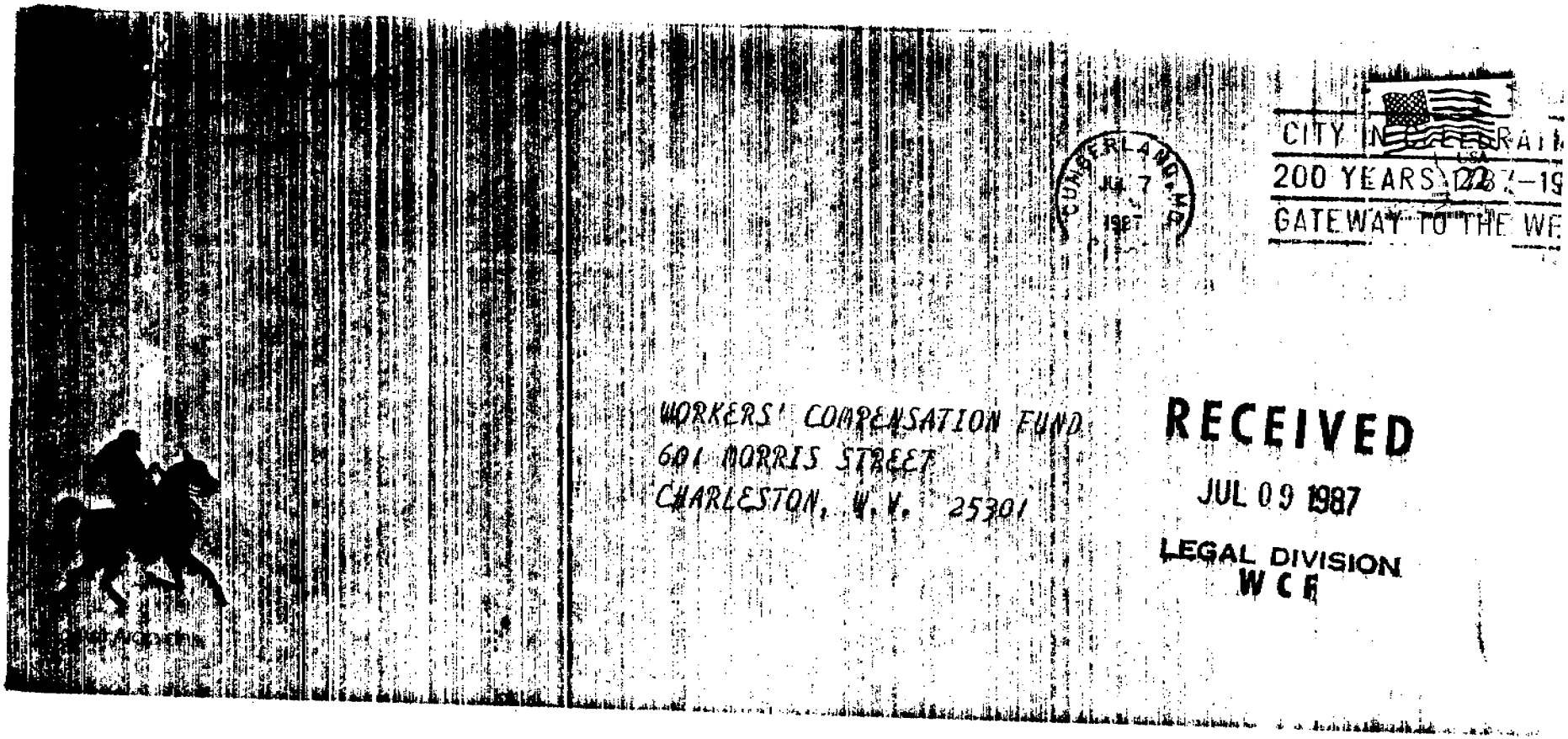
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

My Farm friends do not believe any further increase of a controllable kind are called for.

John F. Leaberry
John F. Leaberry
Commissioner

Vincent Melzac

5506301[illegible]
MELZAC, VINCENT
RT 1 BOX 189 C
ROMNEY WV 26757



CUMBERLAND, MD
JUL 7
1987

CITY IN
200 YEARS
GATEWAY TO THE WE

WORKERS' COMPENSATION FUND
601 MORRIS STREET
CHARLESTON, W. V. 25301

RECEIVED
JUL 09 1987
LEGAL DIVISION
W C F

Orthopaedic Surgery, Inc.
Wheeling, West Virginia 26003

J. P. Griffith, Jr., M.D.
Sam Vukelich, M.D.
Derek H. Andreini, M.D.
Jonathan D. Lechner, M.D.

210 Professional Center III
Medical Park
(304) 242-6373

Medical CCS

July 6, 1987

John Leaberry
Workman's Compensation Fund
601 Morris Street
Charleston, W.Va. 25301

Dear Mr. Leaberry:

The Workman's Compensation Fund Medical Cost Containment System was recently brought to my attention and I feel that this will greatly hamper the excellent care that Workman's Compensation patient's have received in West Virginia. It is imperative that our worker's in West Virginia be treated appropriately and decisions not made solely on saving the Compensation Fund's money. I feel very strongly concerning this Containment System and would gladly meet with you to discuss it in detail. If I could be of further assistance please do not hesitate to call me.

Sincerely,

Derek H. Andreini, M.D.

DHA:lc

Huntington Ear Clinic, Inc.

2537 THIRD AVENUE, HUNTINGTON, WV 25703-1692 • PHONE (304) 529-2407

Joseph B. Touma, M.D., F.A.C.S.
Diplomate American Board of Otolaryngology
Fellow American College of Surgeons
Ear Diseases and Balance Disorders

Robert Shumate, M.Ed., CCC-A
Certified Audiologist

Lena S. Shumate, M.Ed., CCC-A
Certified Audiologist

Beverly J. Prout
Office Manager

July 8, 1987

Workers' Compensation Fund
P.O. Box 3151
Charleston, West Virginia 25321

ATT: Mr. John Leaberry

Dear Mr. Leaberry:

This is in response to your request to send you comments concerning the medical fee schedule. I support the idea of having a cost containment system except for the following:

1) There should be a narrow range of fee for each item, and the reason for that is that there are some physicians who are better equipped than others. As an example, an audiogran than can be performed by an experienced and certified audiologist certainly should be reimbursed for more than another one performed by a technician and countersigned by an audiologist.

2) Workers' Compensation should accept only specific number of physicians that meet the highest standard and experience. An example of that is that several hearing impaired patients can initiate their compensation case by going to a general practitioner who might have a primitive audiometer. This person can run a test and charge for it even though it is very inaccurate and be paid by the Fund.

Once again, I want to thank you for soliciting these comments.

Sincerely yours,

Joseph B. Touma, M.D.

JBT:cls

"HEARING IS PRECIOUS, PROTECT IT"

PHYSICAL THERAPY SERVICES CO.

137 Waddles Run Road
Wheeling, West Virginia 26003
(304) 242-5080

July 7, 1987

John F. Leaberry
Commissioner of
WV Workers' Compensation
601 Morris Street
Charleston, WV 25301

Dear Commissioner,

This letter is being written in response to your recent efforts at implementing a medical cost containment system. More specifically, this letter is addressing the medical fee schedule.

As a practicing health care practioner, I believe that there have been several billing inconsistencies noted in the past in the West Virginia Workers' Compensation Fund. This has made needed information almost an impossibility to obtain. By going to the system that was proposed on June 29, 1987, this will allow the retrieval of data to give you access to health care providers who are successful and not successful and the reasons why they are or are not. Further, this will also bring the Fund into uniformity with other third party payers. My greatest concern in this system is that there needs to be fairness associated with the billing to all health care professionals including physicians, chiropractors and other allied health personnel. It is only through a fair fee schedule that your system will be successful. I urge you to continue to pursue your cost containment system as I think it is a step in the right direction by the Fund and is long overdue.

Thank you for the opportunity to express these views.

With Kindest Regards,

John F. DeBlasis, M.S. P.T.

JD/sg

Marty's Rexall Pharmacy

2249 LISBON STREET • EAST LIVERPOOL, OHIO 43920

Telephone (216) 386-5521

July 7,1987

Workers' Compensation Fund
601 Morris Street
Charleston , WV 25301

Dear Sir ,

Since I have no knowledge of this fee schedule of June 29,1987, I can not knowledgeably comment on the matter.

Please, send all pertinent information . So that I may study.

Yours truly,

Robert R. Lewis

Robert R. Lewis

RRL/jp

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

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NOTICE OF COMMENT PERIOD ON PROPOSED RULE

AGENCY: Workers' Compensation Fund

RULE TYPE: Legislative

RULE TITLE: Medical Fee Schedule

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Workers' Compensation Fund

601 Morris Street

Charleston, WV 25301

John F. Leaberry
Commissioner

JACK PUSHKIN, M. D.
SUITE 104-GENERAL MEDICAL PAVILION

TONY C. MAJESTRO, M. D.
415 MORRIS STREET

CHARLESTON, WEST VIRGINIA 25301

ORTHOPEDIC SURGERY

TELEPHONE 343-4691

July 7, 1987

Mr. John Leaberry, Commissioner
W. Va. Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Dear Mr. Leaberry:

In response to your letter dated June 30, 1987, concerning a comment on the medical cost containment system, there are a few points which I would like to address.

1) Since Workers' Compensation patients usually constitute a large percentage of our patients, any cost containment system would certainly impact heavily on any orthopedist office. Therefore, I feel that before a fee system is imposed, there should be some input from the state orthopedists, as well as perhaps surveying fee schedules from the various offices throughout the state in arriving at a fair and equitable fee schedule.

2) The fee schedule should be updated at least once a year to allow for inflationary increases and expenses, particularly the rises in malpractice insurance, which is the highest overhead expense in our office, for which at the present time we are unable to control.

Very ~~truly~~ yours,

Tony C. Majestro, M. D.

TCM/wj

Beckley Center
Saint Albans
Mental Health Services

815 SOUTH KANAWHA STREET
BECKLEY, WEST VIRGINIA 25801
304 252-6549

July 6, 1987

Mr. John F. Leaberry
Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Dear Mr. Leaberry:

Thank you for your notice, dated June 20, 1987. A copy of that notice is enclosed.

I would like to comment on the Medical Cost Containment System Manual. It has been my experience that it takes too long for your Claims Management Division to give us authorization to treat clients. For instance, I had written 40 letters regarding 40 clients requesting your agency to give us authorization to treat these clients for 10 psychiatric treatment sessions. However, today is July 2, 1987 and we still have not received letters of authorization to treat these clients. In the mean while, we have seen these clients on two different occasions for psychiatric treatment because they have been ongoing clients here under your authorizations. However, your authorization to treat them here had expired, and I had written those 40 letters requesting authorization for 10 additional psychiatric treatment sessions. It would be in everybody interest if you could speed up this process and forward us letters of authorization in one or two weeks.

Thanking you.

Yours sincerely,

Ramesh Shah, M.D.
(Diplomate of the American Board of Psychiatry and Neurology)

RCS/sjt
Encl:

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

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The Medical Cost Containment System Manual was filed in the State Register as a Proposed Legislative Rule on June 29, 1987. Also, the following notice was filed, giving an opportunity for public comment upon the proposal. We invite your comments and advice concerning this matter.

* * * * *

NOTICE OF COMMENT PERIOD ON PROPOSED RULE

AGENCY: Workers' Compensation Fund

RULE TYPE: Legislative

RULE TITLE: Medical Fee Schedule

A Comment Period on the above Proposed Rule has been scheduled. The period begins this date and will end on July 31, 1987 at 5:00 p.m. Only written comments will be received. Comments are to be mailed or delivered to the following address:

Workers' Compensation Fund

601 Morris Street

Charleston, WV 25301

COMMENT ON REVERSE SIDE-----

John F. Leaberry

John F. Leaberry
Commissioner

THIS OFFICE HAS ONLY DEALT WITH WORKERS' COMPENSATION FUND ONCE AND IT WAS NOT A GOOD EXPERIENCE. I ENDED UP BILLING FOUR TIMES FOR AN OFFICE EXAM OF AN INJURED EMPLOYEE.

MY SUGGESTING IS THAT WHENEVER A CLAIM IS MADE THAT YOU SEND A PROPER CLAIM FORM TO THE PHYSICIAN OR THE PATIENT SO THAT THE CORRECT FORM CAN BE COMPLETED OUT THE FIRST TIME INSTEAD OF THE PHYSICIAN TRYING TO FILE CLAIM ON THE WRONG FORMS AND BE CONTINUOUSLY REJECTED DUE TO THE FACT THAT A PROPER CLAIM FORM HAS NOT BEEN COMPLETED. WE DO NOT HAVE YOUR FORMS IN OUR OFFICE AND SO THEREFORE IT WAS IMPOSSIBLE TO FILE THE CLAIM CORRECTLY.

HOPE THIS HELPS YOU IN THE FUTURE.

JOHN H. KILGORE, D.O.
220 NORTH MAIN ST. BOX 668
EVART, MICHIGAN 49631-0668

Glasrock Home Health Care

Glasrock Home Health Care Inc
Administrative Office
PO Box 4510
4448 Oak Bridge Drive
Flint MI 48504
313 733 3970
800 435 8469 MI Only
800 423 4189 IN/WI Only

July 8, 1987

John F. Leaberry
Commissioner
Worker's Compensation Fund
601 Morris St.
Charleston, W. VA, 25301

Dear Mr. Leaberry,

I received your notice today, dated June 30, 1987, regarding the establishment of the Worker's Compensation Fund Medical Cost Containment System Proposal, file in the State Register. You are asking for written comments on the proposal. Unfortunately, we have not received a copy of this proposal in order to offer our comments.

Could you please forward a copy of the proposal directly to my attention as soon as possible, so that we may comment prior to the expiration of the comment period.

I would also like to point out that you have an incorrect address for Glasrock Home Health Care. Please do not use P. O. Box 4514 for future correspondence, our correct Post Office Box is 4512.

Thank you for your prompt response.

Sincerely,

Mary Ellen W. Spradlin

Mary Ellen W. Spradlin
Cash/AR-Manager

MEWS/nw

JAMES WHITE KESSEL, M.D., F.A.C.S.

General Surgery

General Medical Pavilion,
Suite 407,
415 Morris Street,
Charleston, WV 25301
Telephone 304/343-1711

July 9,1987

John F. Leaberry, Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, W.V. 25301

Re: Medical Fee Schedule

Dear Mr. Leaberry:

I write to oppose the proposed Medical Fee Schedule. I agree that the entire workers' compensation program has gotten out of hand and needs to be put back on a sounder financial basis.

The Medical Fee Schedule is a short term fix that will do nothing for the treatment of the fundamental problem with workers' compensation. This problem is the entitlement to benefits process, and its extension; the continuation of benefits.

Unilaterally reducing the physician's fee is patently unfair. Do you reduce the charges levied by the telephone company or the power company, not to mention the salaries of all of your department's employees without consequence?

The Medical Fee Schedule could be received in a more favorable light if your department reduced payments to all suppliers of services. Don't just punish the people who actually render the care to the injured worker.

Rather than penalize one group, act to end the chronic abuse of workers' compensation. This abuse of the system is what is the root of the current problem. Abuse has turned a once nobel idea into a monster.

Sincerely,

James W. Kessel, M.D.

JWK:cm

VPS CASE MANAGEMENT SERVICES INC., *Medical/Vocational*

1606 Santa Rosa Road • Box K-131 • Richmond, Virginia 23288 • (804) 288-1168

July 7, 1987

Workers Compensation Fund
601 Morris Street
Charleston, West Virginia 25301
Mr. John F. Leaberry, Commissioner

Re: Proposed Medical Fee Schedule

Dear Commissioner Leaberry:

When the proposed rule came to my attention I questioned the basis for the rule. If it was because there had been abuse, then perhaps the abuse could have been handled individually.

If it was for pure cost containment measures, then I oppose the proposed rule for the following reason.

Rehabilitation of an injured worker requires a serious team effort and a very open line of communication between the physician, the therapists, the rehabilitation professional, the attorneys and the employers. The only thing these professionals have to sell, on an income producing basis, is time. To say that a person will get paid for his time in communicating with an employer while developing a job description, but not for discussing that job description with the physician for his cooperative approval and signature does not seem consistent with the intent of rehabilitating the injured worker.

It appears that if there were ways to measure results, versus costs of the rehabilitation services offered by the vendors in the state, then costs could well be contained.

Each vendor could send a computer print out of every active file and closed file per quarter and an honest evaluation done by your staff to determine where the money is going and what results are achieved for the money spent. VPS does this regularly and supports this procedure.

I am in favor of rules and regulations and am a proponent of cost containment, but I'm not sure the medical fee schedule is going to resolve the real cost problems.

At any rate, I appreciate the opportunity to comment freely and I will cooperate with the rules however they are enacted.

Yours truly,

Mary Gambosh

Mary Gambosh, R.N., CIRS
President

MG/bc

ORTHOPAEDIC ASSOCIATES, INC.

RICHARD H. SIBLEY, M.D.
MICHAEL O. FIDLER, M.D.

3100 MacCORKLE AVENUE, S.E.
CHARLESTON, WEST VIRGINIA 25304
(304) 343-8846

DIPLOMATES,
AMERICAN BOARD OF
ORTHOPAEDIC SURGERY
MEMBERS
AMERICAN SOCIETY
FOR SURGERY OF THE
HAND

July 8, 1987

Mr. John F. Leaberry, Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

RE: Medical Fee Schedule

Dear Mr. Leaberry:

I welcome this opportunity to make a written comment regarding the Medical Fee Schedule proposed by the Workers' Compensation Fund.

I believe all parties to the problem of health care costs recognize the burden imposed on the Workers' Compensation Fund to provide medical care for their beneficiaries. It follows then that all parties to the problem might have significant and useful information to put into the equation for solving the problem.

Therein lies my first and major complaint about the proposed Medical Fee Schedule: no effort was made to seek or solicit pertinent information or input from medical practitioners prior to the development of this fee schedule. It was unilaterally proposed and unilaterally imposed upon the practitioners in a dictatorial fashion. We are now seeing, as the result of a court order, the appearance of a process of consultation and discussion. However, it is clear from your notice dated June 25, 1987, that the Medical Fee Schedule "will be implemented in the future". Therefore, I am led to question how much consideration will be given to the comments contained in letters such as this.

A review of the usual and customary fees in this office reveals that the proposed Medical Fee Schedule would impose across-the-board cuts in reimbursements on the order of 40%. When one considers a very typical medical office overhead of 35 to 40%, and an uncollectable fee percentage of 15%, one sees quickly that the care of Workers' Compensation patients rapidly tends toward a break-even situation at best.

The time periods placed on the reimbursement schedule create a further burden. For given diagnosis, it takes longer to get a patient covered by Workers' Compensation benefits to agree that he is well enough to return to gainful

employment in a significant majority of cases as compared with the general population. Secondary gain is a major element of this problem - mostly in the form of substantial total temporary disability payments. Therefore, a physician struggling to deal compassionately but fairly with his patients will many times find himself providing extended periods of care at wholly inadequate levels of reimbursement for his efforts.

I believe the total weight of the above problems will result in the best doctors feeling that they are economically unable to continue providing care for patients covered by Workers' Compensation. These doctors will be able to fill their schedule from other resources. It will then fall to marginal physicians to pick up the compensation trade, and the range of choices for the patient will be significantly narrowed. I suggest it is in the interest of the employer to provide for the best possible medical care for his employee, so that the patient can be promptly treated, competently treated, and returned to gainful employment as rapidly as possible. The new Medical Fee Schedule will not accomplish this.

I do not claim a solution for the financial problems of Workers' Compensation. However, I do not think unilateral massive reduction in physicians fees is appropriate, and it will be counter productive. I think at the very least a genuine process of discussion and negotiation needs to occur, with the goal of providing the best possible treatment for the injured employee. And, I feel a hard look must be taken at what is undoubtedly a most significant financial burden for Workers' Compensation - the temporary total disability payment. The size of the payment, the secondary gain problem that it creates, and the uncertain manner in which the review process for continuing the payments is done all need to be examined.

I welcome your comments on the above points.

Sincerely,

Michael O. Fidler, M.D.

MOF:wlb

SAVE RITE PHARMACY
PHIL PATA PHARMACIST

3235 BELMONT STREET — PHONE: 676-3433 — BELLAIRE, OHIO

FOR _____

ADDRESS _____

℞ As a Pharmacy from Ohio my only comment on the Medical Fee Schedule is that we would like to use our Ohio Schedule for biling proceedures. We have so many fee schedules that our time would be saved as we are using this schedule on all our Compensations.

Phil Pata Pharm

☐ LABEL
☐ PHONE ORDER
☐ SUBSTITUTION MADE

N.R. - 1 - 2 - 3 - 4 - 5 - INF.

DEA NO. _____ _____ M.D.

DATE _____ _____ ADDRESS

DR. JERRY R. WILLIS
CHIROPRACTOR

570 E. MAIN STREET • WYTHEVILLE, VIRGINIA 24382

July 6, 1987

Mr. John F. Leaberry
Worker's Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Dear Mr. Leaberry:

We would like to take this opportunity to say that we feel our fees of $35.00 which includes manipulation and one therapy is very reasonable and is charged all our patients. However, Worker's Compensation Fund is only paying $20.00. I cannot see why they pay $15.00 less than our regular patients.

Sincerely,

Jerry R. Willis, D. C.

V. S. Diwan, M.D.
335 Williamson Ave.
Pineville, W. Va. 24874

July 11, 1987

WEST VIRGINIA WORKERS COMPENSATION FUND

THERE SHOULD NOT BE ANY CHANGE. I OPPOSE TO ANY CHANGE AND THE WORKMENS COMPENSATION FEES SHOULD REMAIN AS IT IS.

V. S. Diwan, m.D.

LARRY C. SMITH, M.D.
Psychiatry
SUITE 100 - HIGHLAWN MEDICAL BUILDING
2828 FIRST AVENUE
HUNTINGTON, WEST VIRGINIA 25702
522-4422

July 13, 1987

John F. Leaberry
Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

RE: Notice of Comment Period on Proposed Rule (Physician Fee Schedule)

Dear Mr. Leaberry:

I would like to comment on the Workers' Compensation Fund Medical Cost Containment System which was filed in the State Register as a proposed Legislative Rule on June 29, 1987.

I heartily support the stand of the West Virginia State Medical Association petition to the Court which was filed on June 9, 1987 prohibiting the Fund from implementing the system, and recommend it be adhered to.

Sincerely,

Larry C. Smith, M.D.

LCS/gck

JACK PUSHKIN, M. D.
SUITE 104-GENERAL MEDICAL PAVILION

TONY C. MAJESTRO, M. D.
415 MORRIS STREET

CHARLESTON, WEST VIRGINIA 25301

ORTHOPEDIC SURGERY

TELEPHONE 343-4691

July 9, 1987

Mr. John F. Leaberry, Commissioner
W. Va. Workers' Compensation Fund
Post Office Box 1551
Charleston, West Virginia 25326

Dear Mr. Leaberry:

This is in response to your letter of June 30, 1987, concerning the Medical Cost Containment problems with Compensation and a proposed medical fee schedule change.

As you are undoubtedly aware, a considerable part of my orthopaedic practice involves Workers' Compensation cases, both from the standpoint of the active care of patients and also includes disability and 120 day examinations of also Workers' Compensation patients. A considerable part of my practice involves the treatment of your clients and my patients.

There are many factors involved with cost containment and Workers' Compensation Fund, predominantly ineffectiveness and gross inefficiency account for a good bit of the problem. I strongly feel that much of this could be controlled by placing an award limit on specific injuries for patients. Another factor which I feel is important is simply that many of these cases drag out for several years at times, involving needless expenditure, whereas it could be settled more quickly.

With regards to the fee schedule itself, I do not have any opposition to a fee schedule provided it is a fair and equitable schedule. To cut a physician's fee in this day and age by 25 or 30%, which is what this proposed schedule is doing, simply would create an undue hardship on those physicians that see a goodly number of Compensation patients. I don't have to elaborate on our overhead expenses with our malpractice premiums and other expenses, and I simply cannot afford to continue to see Compensation patients if it means a 25 to 30% decrease.

I am happy that your department is looking into the situation and I would be happy to continue providing the service for Workers' Compensation, but only if the fee schedule is fair and equitable. Likewise,

I also invite any comments you may have regarding this matter. I would be happy to work with you in resolving any of these problems.

Very truly yours,

Jack Pushkin, M. D.

JP/wj

MICHAEL J FREDRICK, D.C

TELEPHONE (304) 453-615

CEREDO-KENOVA CHIROPRACTIC CENTER
RT. 60 & SIXTH ST. P.O. BOX 715
CEREDO, WEST VIRGINIA 25507

July 13, 1987

Workers' Compensation Fund
601 Morris St.
Charleston, W VA 25301

Re: Medical Fee Schedule

Dear Sirs:

We at the C-K Chiropractic Center would like to make comment on the Workers' Compensation Fund Medical Cost Containment System.

I have discussed this system with Dr. Fredrick and he and I both agree that this system is acceptable with us.

I would like for the Fund to decide one way or the other as to how the billing should be done and as to which fee schedule we are to use because it gets very confusing to my billing clerks here in the office.

We feel that this new medical cost containment system is fair and it makes the billing procedures much easier and is simple to understand for everyone concerned.

Thank you,

Linda Smith

Linda Smith, Office Manager

WILLIAM F. SCHRANTZ, M.D.
ORTHOPEDIC SURGERY
309 CLIFFTON COURT • P.O. BOX 1908
MARTINSBURG, WEST VIRGINIA 25401
(304) 263-0953

July 8, 1987

Mr. John Leaberry
Worker's Compensation Fund
601 Morris Road
Charleston, WV 25301

Dear Mr. Leaberry:

Upon review of the fee schedule we were sent, it would appear that our surgical fees would be reduced by at least 25%. I wish I could say that my state government had dealt with my malpractice bill which has increased 400% in four years. I consider my fees reasonable to cover my costs in caring for my patients and providing the substantial clerical support needed to satisfy the paperwork requirements.

I believe that a profile such as other companies use would be fairer than an abrupt change to a fee schedule.

Sincerely yours,

William F. Schrantz, M.D.

WFS/cas

cc: file

DR. G. V. REDDY, M.D., F.C.
P.O. Box 358
Doran, Virginia 24612
Telephone: (703) 964-6795

July 8, 1987

John F. Leaberry, Comm.
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Sir:

I have a series of complaints regarding the medical cost containment system. I would like to air these complaints to defeat the proposed legislature rule.

(1) The above system is a very complicated system which cannot be completely implemented in the office setting of medical practitioners. The experts in this field are finding it difficult to understand and are unable to give me meaningful instructions to help me use the above system. I have not been able to understand the unit value and the conversion factors that are used in the reimbursement.

(2) Although we are using the CPT procedure codes in submitting our bills to every insurance company, the limitations that are placed in the number of physical therapy treatments that are given in any single day and the fixing of prices for such procedures is making it very difficult for us to process these claims.

(3) Prior authorization for hospitalization and surgery have become the routine with every insurance company, but if we are unable to reach the Workers' Compensation Fund for the prior authorization in spite of several hundred calls, we are left with a patient who is not getting the treatment and the medical office is disgusted because we are unable to reach the compensation fund. We have been given the telephone numbers to call but these telephones are all engaged at all times. Also the authorization procedure of sending written requests is not a feasible procedure because some of these requests have taken three to four months before I have received an answer. Furthermore, back braces have been included as supplies needing prior authorization and I had one patient who waited for nearly two months and five hundred telephone calls before we got an authorization for the brace. Back braces are supplies which forms an integral part of the immediate treatment of back conditions. It is a supply that is routinely and commonly used for relief of back pain. By placing the back supports among the list needing

prior authorization the Fund has achieved to discourage physicains using back support and the patients are the ones who do not get the treatment and will eventually suffer.

In conclusion, I would like to say that this system is not a good system. It is producing a lot of hardship, not only for the medical office but also for the patient. I also find that the personnel working in the administrative offices of the Workmen's Compensation Fund of West Virginia are rather careless and are not helpful to the physicians. There is considerable evidence to show that they have lesser regard to the patients.

I sincerely hope that you will adopt a method that is fair to everyone, feasible and easy to implement.

Thank you.

Yours truly,

G. V. REDDY, M. D., F.A.C.S.

GVR:aj

LYLE GAGE, JR., M.D.
NEUROLOGICAL SURGERY
BLUEFIELD COMMUNITY PROFESSIONAL BUILDING
510 Cherry Street
BLUEFIELD, WEST VIRGINIA 24701

TELEPHONE 325-7750

July 13, 1987

Worker's Compensation Fund
601 Morris Street
Charleston, WV 25301
Attn: John F. Leaberry

Re: Cost Containment Program

Dear Mr. Leaberry:

I am writing to protest the Workmen's Compensation Fund Medical Cost Containment System. I have not raised my fees to the compensation commission in five years and have enjoyed a good working relationship with them in the past. The fees that we charge the compensation commission are the fees that we charged five years ago. We have raised fees in other areas but not to compensation since they have treated us fairly. However, I feel that in view of the fact that my costs are rising particularly medical malpractice, costs of secretaries, receptionists, papers, equipment, etc., that it is unfair to the practicing physician for the compensation commission to try and reduce the medical fee schedule. I think most of us have tried to be extremely fair concerning the fees that we charge the Compensation Fund knowing full well the plight of the finances in the state of West Virginia. I think you would be better served to try and find ways in which you could get the patients in the compensation system out of the system quicker. This is the weakness that I see that is extremely costly not only to the Compensation Fund but to the employer as well. One might look at the system in Virginia where they are now hiring independent rehabilitation counselors to try and get these people back to work quicker. This to me seems the only logical way to begin to reduce the financial burden on the Compensation Fund. If our medical fees are cut, I would seriously consider altering my compensation patient practice because as you well know some of these people are among the most difficult patient we deal with.

I do not mean this letter to be a criticism of the Compensation Department, but only a few suggestions from my view point as a practitioner who sees many compensation patients.

I hope you will take these comments in the light in which they are given.

Very truly yours,

Lyle Gage Jr., M.D.

LGJr:lgb

AUDIOLOGY AND HEARING AID SERVICES, INC.
2205 Washington St. East P.O. Box 2229
Charleston, West Virginia 25328
Telephone
345-8522

July 10, 1987

John F. Leaberry, Commissioner
Workers' Compensation Fund
P.O. Box 3151
Charleston, WV 25332

RE: COST CONTAINMENT APPROACH INVOLVING AUDIOLOGY SERVICES AND THE PROVISION OF HEARING AIDS.

Dear Commissioner:

If the amount of payment for hearing aids provided to Workers' Compensation Fund clients is arbitrarily set without regard to the wholesale acquistion cost of a hearing aid, it will be economically infeasible to provide appropriate hearing aids for certain individuals who need special types of hearing aids. For example, some hearing aids which have dual speakers, sophisticated noise suppression circuitry, or "BiCROS" or "CROS" circuitry have a wholesale price of more than four times the cost of simple hearing aids acquired from some of the less-well known manufacturers. The wholesale price of hearing aids ranges from $80.00 to $470.00 depending upon make, model and quality of the manufacturer. If a arbitrarily chosen fee is paid for hearing aids the result will be the provision of the least expensive hearing aids which will provide the least amount of satisfaction to the user. It should be realized that the service life of these hearing aids will be considerably shorter than more expensive hearing aids obtained from reputable manufacturers.

I feel that a simple solution to cost containment is to add a reasonable fee to the wholesale list price of a hearing aid to cover the costs of office overhead, fees for rehabilitation services, and profit. I feel that a reasonable fee over and above the wholesale list price of the hearing aid would be $325.00. I would be pleased to provide a justification for this figure if you should desire.

The proposed fees for auditory testing are totally unrealistic. At the present time my company employs eight audiologists, at an average salary of $27,327 excluding retirement, hospitalization and malpractice insurance. This is slightly over $15.00 per hour. When we consider these costs plus the fact that patient contact time in an audiologist's day averages four hours and 20 minutes it is not surprising that our accountants tell us that minimum billing per hour of patient contact time must be $55.00 in order to break even.

Gary D. Harris Ph.D
Audiologist

Vincent Lustig Ph.D
Audiologist

Carol G. Lustig
Special Instruments Consultant

Please realize that Workers' Compensation hearing tests are quite different from clinical hearing tests with respect to the amount of time involved. My audiologists pride themselves on turning in accurate test results. To obtain accurate test results it is sometimes necessary to test and retest an individual three times and to spend considerable counseling time with the individual being tested in order to convince him to respond to test stimuli at threshold level as opposed to exaggerated threshold levels. Oftentimes special tests for non-organic hearing loss must be employed to obtain accurate audiometric thresholds.

If an unrealistically low fee is paid for audiometric test procedures I predict several unfavorable outcomes. First, I predict that audiologists will submit the first test result obtained and will label the audiogram unreliable and invalid if that is the indication and will recommend that the individual be retested at a different time rather than attempting to obtain a reliable and valid audiogram on the spot as has been done in the past. Second, if an unrealistically low fee is paid for audiometric testing, audiologists will be tempted to take short cuts to reduce contact time and test validity will suffer. If there is no reimbursement for special testing such as a Stenger test I predict that it simply will not be done. To put audiology costs in perspective one need only consider the additional compensation that would be paid to an individual whose threshold was over estimated at one frequency in one ear by 5dB. The cost of that 5 dB error would buy more than one entire day of an audiologists time.

I propose that audiology test time be the basis upon which audiologists are reimbursed. I would recommend a minimum payment of $55.00 per hour of patient contact plus reasonable fees for report preparation and photocopying.

I would be pleased to meet with you or your representative at any time to provide further information or to clarify any of my above points.

Sincerely yours,

AUDIOLOGY AND HEARING AID SERVICES, INC.

Vincent Lustig, Ph.D.
Audiologist

VFL:mm

SCOTT, CRAYTHORNE, LOWE, MULLEN, FOSTER & HEGG, INC.

Orthopedic Surgery & Rehabilitation

2828 FIRST AVENUE, SUITE 400 P. O. BOX 3127
HUNTINGTON, WEST VIRGINIA 25702
TELEPHONE 304 - 525-6905

2000 CARTER AVENUE
ASHLAND, KENTUCKY 41101
TELEPHONE 606 - 329-0456

3 WOODLAND PLACE U.S. 23 SOUTH
PAINTSVILLE, KENTUCKY 41240
TELEPHONE 606 - 789-8442

FRANCIS A. SCOTT, M.D.
(1929-1974)

THOMAS F. SCOTT, M.D.
COLIN M. CRAYTHORNE, M.D.
ROBERT W. LOWE, M.D.
JOHN O. MULLEN, M.D.
EARL J. FOSTER, M.D.
KYLE R. HEGG, M.D.
DANIEL E. CARR, M.D.

Arthritis Clinic
Foot Surgery
Hand Surgery
Medical/Legal Evaluation
Physical Therapy
Scoliosis Clinic
Sports Medicine Clinic

July 6, 1987

Mr. Leaberry
Workmens Compensation Fund
Post Office Box 3151
Charleston, West Virginia 25332

Dear Mr. Leaberry:

You requested comments regarding the Workmen's Compensation fee schedule.

We have figured what you pay for varied and sundry things, and the only thing you pay more than we currently charge in this office and my practice is for a myelogram. Our charge is $294.00 and you are paying $300.00. More specifically, I notice that the amount you pay for a lumbar laminectomy is $1650.00 versus our current fee of $2205.00. The amount you pay for a spinal fusion with internal fixation and CD fusion is $2250.00 plus $510.00 for the CD technique; our current charge is $4407.50 plus $1290.00. A posterior spinal fusion you currently pay $2250.00 and our charge is $2450.00 and so it goes.

The charges generated in a physician's office have been developed over a number of years, and reflect the cost of doing business. Though it seems that the charges are high, we have a very complex system and spread of patients. Charges were established on that spread over a significant period of time. This has allowed us to recruit doctors, and to some extent, provide preferred treatment for your patients.

If you do a laminectomy on a Compensation patient, you are taking a $500.00 cut in fee, and you may wind up getting $500.00 less care for your Compensation patients. If you are talking about spinal fusion with more modern techniques that would take a day out of the live of the productive surgeon, you are talking about your people being treated like Welfare which to some extent means equal treatment, but to some extent means their appointment is harder to get back in your office. Things such as a fractured medial malleolus with closed reduction for $225.00, we have to ask you how many times we will see that person and report to you that they are off work.

As with all fee schedules, I am sure there are ways to beat the system, but you are trying to limit the money paid the doctor, and you are probably going to limit the treatment the patient gets, unless the doctor gets hungry, in which case he may increase the treatment your patients get and defeat your own purposes.

We think the concept of a fee schedule to decrease doctors fees across the board sounds good on the surface, but the best I can recall, the doctors service the patients of the State, try and provide the best service we can, and yet charge fees equivalent to keeping us in business. If you cut your fees, then we have to make up for it somewhat, either by firing employees, or doing something else such as not recruiting younger doctors to the State, or probably what will wind up is seeing only the good cases, and not letting the bad cases in.

As far as orthopedic surgery, you are looking at fees for someone with 25 years of education, and an additional 15-20 years of experience in modern techniques, and you are deciding they are not worth what they are saying they are worth on the basis of fee schedules that have been established over a significant number of years that have allowed recruitment and continuing education and modern techniques. It is almost like you are saying you don't trust us. We would suggest you reconsider.

Sincerely,

Robert W. Lowe, M.D.

RWL/mas

AUDIOLOGY AND HEARING AID SERVICES, INC.
2205 Washington St East P.O. Box 2229
Charleston, West Virginia 25328
Telephone
345-8522

July 15, 1987

John Leaberry, Commissioner
Workers' Compensation Fund
P.O. Box 3151
Charleston, WV 25332

RE: HEARING AID EQUIPMENT AND SERVICES: BILLING INSTRUCTIONS
(a publication of Workers' Compensation Fund)

Dear Commissioner Leaberry:

On July 10th I wrote a letter to you with regard to the cost containment approach involving audiology services and the provision of hearing aids. At that time I did not have the benefit of having read the pamphlet "Hearing Aid Equipment and Services" which I received today. I also discovered that physicians who are associated with audiologists who dispense hearing aids were invited to a workshop or conference which explained the proposed cost containment program. Audiologists in private practice were not invited to these conferences. In the table of contents of "Hearing Aid Equipment and Services" I noticed that physician dispensing of hearing aids is covered on page 2. Nowhere do I find audiologist dispensing of hearing aids. Under physician dispensing of hearing aids on page 2 it is stated that "Physicians specializing in audiology may dispense hearing aids only after enrolling...". Commissioner, there are no physicians who have specialized in audiology in the state of West Virginia. Are we to assume then that physicians may not dispense hearing aids in the state of West Virginia since they have not specialized in audiology?

On page 4 under PRIOR AUTHORIZATION the term "audiometrician" is used. Surely this an oversight in that the term audiometrician may be used by anyone. I know of no college programs that turn out audiometricians. I know of no state licensure for audiometricians. On the other hand, there are college programs which graduate audiologists. Workers' Compensation regulations specify that testing is to be done by audiologists who have a certificate of clinical competance in audiology (CCC-A) granted by the American Speech-Language-Hearing Association. Certification is granted only to those individuals who have completed a Masters degree including specific courses in audiology and have completed a supervised clinical field year.

Gary D. Harris Ph.D
Audiologist

Vincent Lustig Ph.D
Audiologist

Carol G. Lustig
Special Instruments Consultant

On page 19 the section entitled SCHEDULE OF MAXIMUM ALLOWANCES AND PROCEDURE DESCRIPTIONS CODE V5000 lists only air conduction, bone conduction, speech reception, threshold and speech discrimination testing with a fee of $45.00. As you know the Workers' Compensation regulations also require acoustic impedance testing as part of the audiometric test battery. The usual charge for acoustic impedance testing in my office is $24.00. I was disturbed by the omission of a code for Stenger testing and special testing to rule out malingering and other non-organic hearing loss. Without a code and fee for non-organic test procedures I predict that these procedures will not be done by many, if not most, audiologists. The usual fee for Stenger testing in my office is $18.00. In the majority of cases tested this special test is not indicated. However, I shudder to think of the economic consequences of not doing the tests for non-organic hearing loss when they are indicated. On page 21 code V5245 "hearing aid replacement batteries" a pack of six batteries is specified. For the past five years, since the development of zinc-air batteries, a standard pack for most batteries dispensed is three cells. Three zinc-air batteries have a greater milliamp hour rating than six of the older style mercury oxide batteries which are sold in packages of six. Most hearing aid manufacturers specify zinc-air batteries. The acquistion cost of zinc-air vs mercury oxide batteries is nearly identical. Thus, code V5245 should be amended by deleting "a pack of six" and adding "standard pack". Under code V5245 I note that batteries are not billable at the time of purchase. My office manager tells me that it will be an undue hardship to wait two days after the date of purchase in order to bill for a years supply of batteries. Due to the cost of billing it simply would not be economically feasible to provide batteries one package at a time.

I foresee a serious problem arising from the fact that Workers' Compensation law states that the claimant cannot be billed, under any circumstances, for the difference between the maximum allowable rate for a hearing aid and a reasonable charge for that hearing aid. It is obvious to anyone who is knowledgeable about the cost of hearing aids that $475.00 is going to buy a hearing aid with "straight amplifier" but without intermodulation distortion filtering, input compression, telephone coil, feedback reduction circuit, automatic gain control, noise suppression circuit, stepped-response microphone, push/pull amplifier, or any one of a number of circuitry features which differentiates premium hearing aids from those manufactured to be sold as "economy aids for third party fitting." This type of aid is also referred to in the industry as "budget aid," "price promotion aid," or "low end aid." Most reputable hearing aid dispensers who rely on repeat business never dispense this type of hearing aid because it is detrimental to word-of-mouth advertising due to increased user dissatisfaction. It seems likely that individuals who are provided with the economy hearing aids will intentionally "wear out" that hearing aid as soon after the one year warranty expiration date as possible in order that they may replace the hearing aid with an upgraded replacement. Most hearing aid

users would gladly pay $150.00 from their own pocket in order to be able to wear a premium aid as opposed to a budget aid. If the worker had an investment in a premium hearing aid it is likely that the hearing aid would last for a longer period of time because it would not be intentionally "worn out."

On page 2 under DISPENSING FEES AND EXAMS it is stated that "Hearing evaluations are billable only when the evaluation is performed by a provider other than the hearing aid dispenser OR if the test results indicate no hearing aid is needed." If this policy is instituted it will become necessary for every audiologist in this state to decide whether he will provide hearing aids or whether he will test Workers' Compensation clients. Under no circumstances will he be able to afford to do both. The stipulation that audiologists may not test and provide the hearing aids with separate fees for each of the functions is unreasonable.

Sincerely yours,

AUDIOLOGY AND HEARING AID SERVICES, INC.

Vincent Lustig, Ph.D.
Audiologist

enclosure

VFL:mm

AUDIOLOGY AND HEARING AID SERVICES, INC.
2205 Washington St. East P.O. Box 2229
Charleston, West Virginia 25328
Telephone
345-8522

July 10, 1987

John F. Leaberry, Commissioner
Workers' Compensation Fund
P.O. Box 3151
Charleston, WV 25332

RE: COST CONTAINMENT APPROACH INVOLVING AUDIOLOGY SERVICES AND THE PROVISION OF HEARING AIDS.

Dear Commissioner:

If the amount of payment for hearing aids provided to Workers' Compensation Fund clients is arbitrarily set without regard to the wholesale acquistion cost of a hearing aid, it will be economically infeasible to provide appropriate hearing aids for certain individuals who need special types of hearing aids. For example, some hearing aids which have dual speakers, sophisticated noise suppression circuitry, or "BiCROS" or "CROS" circuitry have a wholesale price of more than four times the cost of simple hearing aids acquired from some of the less-well known manufacturers. The wholesale price of hearing aids ranges from $80.00 to $470.00 depending upon make, model and quality of the manufacturer. If a arbitrarily chosen fee is paid for hearing aids the result will be the provision of the least expensive hearing aids which will provide the least amount of satisfaction to the user. It should be realized that the service life of these hearing aids will be considerably shorter than more expensive hearing aids obtained from reputable manufacturers.

I feel that a simple solution to cost containment is to add a reasonable fee to the wholesale list price of a hearing aid to cover the costs of office overhead, fees for rehabilitation services, and profit. I feel that a reasonable fee over and above the wholesale list price of the hearing aid would be $325.00. I would be pleased to provide a justification for this figure if you should desire.

The proposed fees for auditory testing are totally unrealistic. At the present time my company employs eight audiologists, at an average salary of $27,327 excluding retirement, hospitalization and malpractice insurance. This is slightly over $15.00 per hour. When we consider these costs plus the fact that patient contact time in an audiologist's day averages four hours and 20 minutes it is not surprising that our accountants tell us that minimum billing per hour of patient contact time must be $55.00 in order to break even.

Gary D. Harris Ph.D
Audiologist

Vincent Lustig Ph.D
Audiologist

Carol G. Lustig
Special Instruments Consultant

Please realize that Workers' Compensation hearing tests are quite different from clinical hearing tests with respect to the amount of time involved. My audiologists pride themselves on turning in accurate test results. To obtain accurate test results it is sometimes necessary to test and retest an individual three times and to spend considerable counseling time with the individual being tested in order to convince him to respond to test stimuli at threshold level as opposed to exaggerated threshold levels. Oftentimes special tests for non-organic hearing loss must be employed to obtain accurate audiometric thresholds.

If an unrealistically low fee is paid for audiometric test procedures I predict several unfavorable outcomes. First, I predict that audiologists will submit the first test result obtained and will label the audiogram unreliable and invalid if that is the indication and will recommend that the individual be retested at a different time rather than attempting to obtain a reliable and valid audiogram on the spot as has been done in the past. Second, if an unrealistically low fee is paid for audiometric testing, audiologists will be tempted to take short cuts to reduce contact time and test validity will suffer. If there is no reimbursement for special testing such as a Stenger test I predict that it simply will not be done. To put audiology costs in perspective one need only consider the additional compensation that would be paid to an individual whose threshold was over estimated at one frequency in one ear by 5dB. The cost of that 5 dB error would buy more than one entire day of an audiologists time.

I propose that audiology test time be the basis upon which audiologists are reimbursed. I would recommend a minimum payment of $55.00 per hour of patient contact plus reasonable fees for report preparation and photocopying.

I would be pleased to meet with you or your representative at any time to provide furtner information or to clarify any of my above points.

Sincerely yours,

AUDIOLOGY AND HEARING AID SERVICES, INC.

Vincent Lustig, Ph.D.
Audiologist

VFL:mm

IMPORTANT NOTICE

Arch A. Moore, Jr.
Governor

West Virginia
Workers' Compensation Fund

John F. Leaberry
Commissioner

June 30, 1987

This is notice of another development in the establishment of the Workers' Compensation Fund Medical Cost Containment System.

The Medical Cost Containment System Manual was filed in the State Register as a Proposed Legislative Rule on June 29, 1987. Also, the following notice was filed, giving an opportunity for public comment upon the proposal. We invite your comments and advice concerning this matter.

* * * * *

NOTICE OF COMMENT PERIOD ON PROPOSED RULE

AGENCY: Workers' Compensation Fund

RULE TYPE: Legislative

RULE TITLE: Medical Fee Schedule

A Comment Period on the above Proposed Rule has been scheduled. The period begins this date and will end on July 31, 1987 at 5:00 p.m. Only written comments will be received. Comments are to be mailed or delivered to the following address:

Workers' Compensation Fund

601 Morris Street

Charleston, WV 25301

John F. Leaberry

John F. Leaberry
Commissioner

RECEIVED

JUL 16 1987

LEGAL DIVISION
WCF

RUDOLF K. LEMPERG, M.D., PH.D.
ORTHOPEDIC SURGEON
MEDICAL ARTS CENTER, SUITE 105
2010 OATES DRIVE
MARTINSBURG, WV 25401
(304) 263-1830

July 15, 1987

Commissioner
WV Workers' Compensation Fund
P.O. Box 3151
Charleston, WV 25332

Re: Medical Cost Containment Proposal

Dear Commissioner:

The WV Workers' Compensation Fund has sent to me a sample of its Cost Containment proposal with fixed payment rules for physician fees.

I understand that it is tempting for Workers' Compensation Fund to do so and probably in itself it is not unreasonable to attempt cost containment and also to get uniform fee schedules, however there are a number of strong objections to do so:

1) The main objection is that Workers' Compensation, Medicare, and insurance companies all have more and more rigid fee schedules for physicians. All fee schedules together are cutting down significantly the total income of the physician. On the other hand there appears to be no serious attempt from government and all these other organizations to help cut down on the expenses of the same physicians who are heavily hit by fee containment systems. It is totally unfair and unrealistic to expect that the physicians alone will continue to carry the burden of cost containment.

   It is totally unfair that government on the other side does not make any whatsoever attempt to contain the lawyers' fees which are, at the time being, the heaviest burden to the physicians who are the cashiers for the unrestricted fees for lawyers in liability cases. Liability insurance premiums are by far the most rapidly growing expense in our practice. Example: My own premium rose with 100% within one year.

2) Since the rapidly growing expenses are easily traceable to the liability insurance premium, yearly adjustment of the fee schedules are necessary at the same pace as insurance premiums are increasing. For many smaller surgical operations the share for the insurance premium is more than 50% of the total fee.

3) It would have been fair if Workers' Compensation Fund would have made an attempt to contact different speciality organizations within the medical field in order to establish what kind of fair fees could be acceptable. Workers' compensation cases most of the time are very laborious and time consuming for physicians because of a large amount of extra paperwork involved in taking care of these kinds of patients.

Sincerely,

Rudolf K. Lemperg, M.D., Ph.D.

RKL/dkg

BYERS
LOCK AND KEY SERVICE
1928 OHIO AVENUE
PARKERSBURG, WV 26101
304/422-1833

7-15-87

W. Va Workes Compensation Fund
601 Morris St.
Charleston, W. Va 25301

To Whom it may Concern
I think you should leave the medical
Costs alone.
If you set an amount on medical Cost
then the Doctor or whoever will
be billing the worker.
I think what you need to do is pay
the compensation faster than what
you have been paying.

Thank you
Mary J Byers

ORTHOPAEDIC ASSOCIATES, INC.

RICHARD H. SIBLEY, M.D.
MICHAEL O. FIDLER, M.D.

3100 MacCORKLE AVENUE S.E.
CHARLESTON, WEST VIRGINIA 25304
(304) 343-8846

DIPLOMATES,
AMERICAN BOARD OF
ORTHOPAEDIC SURGERY
MEMBERS
AMERICAN SOCIETY
FOR SURGERY OF THE
HAND

July 9, 1987

Mr. John F. Leaberry, Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Re: Workmen's Compensation Fee Schedule
(Medical Cost Containment System)

Dear Mr. Leaberry:

We recently received a book with a Workmen's Compensation Fee Schedule which was drawn up by the Workmen's Compensation Commission and their consultants. This was to be implemented one week after we received the schedule but has been delayed by the courts pending public hearings.

We have compared the fee schedule with our usual and customary office fees. The feel schedule is 43% below our usual fees. Furthermore, there is no built in mechanism for medical input into subsequent adjustments for inflation or cost of providing services.

It is not possible for us to provide services for injured workers with this drastic reduction in the workers insurance benefits. This plan in effect converts the insurance system that is valued by the working man into an insurance system similar to the patient that requires state welfare assistance. I fail to see where this will help our citizens, as it will result in the limitation of medical services for injured workers, the transfer of funds that are due physicians for services rendered to the pockets of employers who are responsible for their employees insurance.

There are many areas in which the cost of Workmen's Compensation insurance can be decreased, and I will list the following ideas:

1. Claims review--an appropriate and aggressive claims review would be a very important aspect of decreasing costs. It is absurd to consistently see people with relatively minor strains from reported compensable injuries that are off work for months or years and many have extensive treatment for various complaints.

2. Rehabilitation -- an effective rehabilitation program would be essential to identify and rehabilitate patients who are having problems returning to their employment.

3. Employers--improved cooperation from employers on allowing injured workmen to return to light duties or jobs other than full manual work would be very desirable. The story that we hear all the time is "there is no light duty" or "you either do the job or we will find someone who can" is often heard by the physician.

4. Union requirements--improved cooperation from the union in alternating some of the job bidding and seniority that goes on and affects the injured workmen trying to return to the labor force would be quite helpful.

In summary, the cost containment system manual or "Fee Schedule" places the responsibility for the cost escalation of injured workers on the medical profession. In many areas that contributes much more to the cost than the charges for services rendered. The effect of the fee schedule will be to limit access and availability of specialty referral and further confuse the system, anger the workers, frustrate the employers, increase disability payments, and result in more litigation and less satisfactory care.

Sincerely,

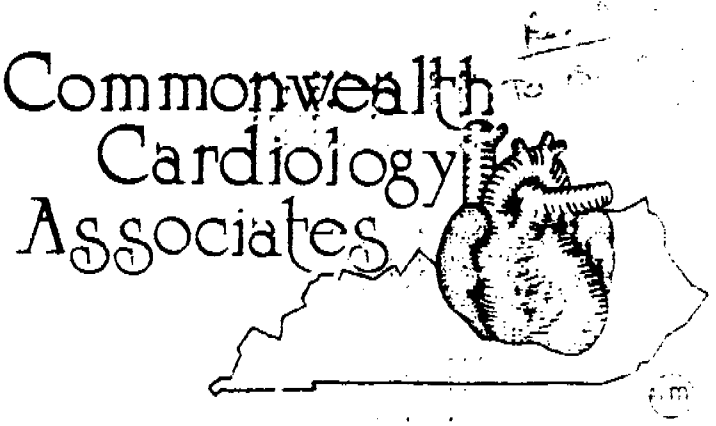
Richard H. Sibley, M. D.

RHS:zag

BRUCE H. COYER, M.D., F.A.C.C.
DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE
DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE, CARDIOVASCULAR DISEASE
FELLOW AMERICAN COLLEGE OF CARDIOLOGY

KEVIN T. SCULLY, M.D., F.A.C.C.
DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE
DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE, CARDIOVASCULAR DISEASE
FELLOW AMERICAN COLLEGE OF CARDIOLOGY

MICHAEL R. JONES, M.D., F.A.C.C.
DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE
DIPLOMATE, AMERICAN BOARD OF INTERNAL MEDICINE, CARDIOVASCULAR DISEASE
FELLOW AMERICAN COLLEGE OF CARDIOLOGY



15 July 1987

Mr. John F. Leaberry, Commissioner
West Virginia Worker's Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Re: Notice of Comment. on Purposed Rule Worker's Compensation Fund
Legislative Rule Title Medical Fee Schedule

Dear Mr. Leaberry:

Our office received your important notice dated June 20, 1987 on the development in the establishment of the Worker's Compensation Fund Medical Cost Containment System. To this date this is the first correspondence we have ever received on this rule and we would very much appreciate it if you could send us previous correspondence on this matter. Our office has not received any prior correspondence on this.

Sincerely,

Bruce H. Coyer, MD

Bruce H. Coyer, M.D., F.A.C.C.

BHC/ebb

Pikeville Chiropractic Health Center
ROUTE 3 BOX 342
PIKEVILLE KENTUCKY 4150
TELEPHONE (606) 432-0386

July 15, 1987

W.VA. Worker's Compensation Fund
P.O. Box 3151
Charleston, West Virginia 25332

Dear Sir/Madam:

In response to your offer of comments regarding the proposed cost containment system, I would like to offer the following opinions.

As a chiropractor I feel the fee you established for an adjustment is too low. Most doctors I know already have a higher fee than you suggest. I don't feel we should have to lower our current fees when we still have to pay our expenses at their current level. The holding of current levels will still save you money in the long run. Also the rate you have given this procedure is the same or only slightly higher than other procedure rates that do not require the doctor's presence.

My other complaint is your request that only these code numbers be used when you also state that you did not use the entire CPT code list as given by the A.M.A. I have the codes already installed into my computer and bill all insurance companies and compensation carriers with no problem. I don't feel I should have to make sure I am using your specialized or limited code numbers when the regular CPT codes are accepted by everyone else.

My last complaint is the requirement that the patient can only choose one physician and then must be referred or have special authorization from the Fund. There have been many instances of the patient not receiving help from the first doctor they choose and then needing to find another doctor, but the original doctor will not refer to a doctor of the patient's choosing. This is especially true of M.D. referral to a chiropractor. The process of obtaining Fund approval takes too long and no one knows if payment for care will be authorized in the meantime.

I believe you can have cost containment without reducing current fee schedules and not infringing on the patient's right to choose their own doctor.

Sincerely,

Steven M. Harrison, D.C.

SMH/dcn

Pikeville Chiropractic Health Center
ROUTE 1 BOX 342
PIKEVILLE KENTUCKY 41501

USA 22

W.VA. Workers' Compensation Fund
P.O. Box 3151
Charleston, West Virginia 25332

DR. WILLIAM P. McDONALD
CHIROPRACTOR
SUITE 100
114 WASHINGTON STREET W.
CHARLESTON, WEST VIRGINIA 25302
PHONE (304) 345-1466

July 20, 1987

John F. Leaberry
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Leaberry:

As a chiropractor, I must protest the fact that the proposed Medical Fee Schedule gives a unit value to the spinal adjustment (manipulation) of only 3.10.

The chiropratic adjustment requires much more training, skill and judgement than, say, the use of diathermy (2.60 unit value). It takes four years of professional schooling beyond college in order to deliver the chiropractic adjustment. It takes only a few weeks of training for a doctor to be qualified by law to utilize physical therapy modalities such as diathermy.

Based on the above reasoning, I urge you to upgrade the chiroptactic adjustment (manipulation) from the proposed 3.10 to a more reasonable 3.50.

Sincerely,

William P. McDonald, D.C.

Rec'd 6-[illegible] To Bill Miller 7-22-87 LJK

LETT ORTHOPEDIC INDUSTRIES INC.

293 Magnolia Ave. • Clarksburg, WV 26301

TELEPHONE
623-2013
623-2524

J. HARVEY LETT, CERTIFIED ORTHOTIST
GERALD K. LETT, CERTIFIED PROSTHETIST - ORTHOTIST

July 21, 1987

Mr. John F. Leaberry, Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Re: COMMENT ON PROPOSED RULE
Medical Fee Schedule

Dear Sir:

I am writing concerning the medical cost containment system that Workers' Compensation is trying to implement.

I support the basic system of using common code numbers and descriptions for all orthotic and prosthetic appliances. The need for this kind of system has been evident for years. When everyone speaks the same language and the computers are programmed for that language and code numbers, the entire system should be much more effective.

While I commend you for the new system, I find the fees assigned to the system totally inadequate. These fees represent about a 1984 or early 1985 fee structure.

I am providing a professional service to your clients and should be reimbursed my usual and customary charges. With the State and Federal budget cuts and the implementation of new and higher taxes, it is imperative that we at least maintain our current level of reimbursement for our services. I ask for your cooperation in not cutting our reimbursement level.

Please keep me informed as to the progress of the legal action involved in the petition.

Very truly yours,

Gerald K. Lett

Gerald K. Lett, C.P.O.

GKL/a

WEIRTON
STEEL CORPORATION

July 20, 1987

Commissioner Nelson B. Robinson
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

RE: **WORKERS' COMPENSATION FUND**
LEGISLATIVE
MEDICAL FEE SCHEDULE

Dear Commissioner Robinson:

The following is offered pursuant to the IMPORTANT NOTICE from the Workers' Compensation Fund dated June 30, 1987 regarding the above-captioned subject. Due to the brevity of the response period, our comments are somewhat limited.

On behalf of the Weirton Steel Corporation, I would like to express our support for the Medical Cost Containment System which has been purchased by the Fund and was to be implemented on June 15, 1987. This Medical Cost Containment System, which contains a fee schedule and utilization review features, will be a positive step in cost containment for Workers' Compensation. Additionally, it ensures the Fund's compliance with Section 23-4-3 of the Workers' Compensation Law which has not been enforced for the past several years because of the lack of a fee schedule.

Nelson, on a personal note, I would like to extend my sincere congratulations on your appointment as Commissioner of the Fund and to offer any assistance you may need in the fulfillment of your new assignment. I trust that by working together we can become increasingly effective.

Very truly yours,

W. L. Mazzocco, Manager
Medical & Employee Benefits

WLM:jep

Office H...
*By Appointm...

STEPHEN I. LESTER, M.D., P.C.
Diplomate American Board of Orthopedic Surgery
301 ORCHARD STREET
ELKINS, WEST VIRGINIA 26241

Telephone 636-9305

July 17, 1987

John F. Leaberry, Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Leaberry:

I have previously written you about the Medical Fee Schedule proposed by the Workers' Compensation Fund of the State of West Virginia. I would like to voice my opposition to a set fee schedule because I think that there is already to much regulation of medical fees by Government Agencies. Physician's have expenses and over head which are sky rocketing. For example, the medical malpractice situation, if a previous experience with the fee schedules would be the experience of this fee schedule; I can conceive that physicians would not be allowed to increase fees to help cover the increasing cost of malpractice coverage.

Treatment of Workers' Compensation Fund patients is much more difficult with the reports, the extra paper work and extra communication required with these patients. Many times these patients are very difficult to get back to work which is the goal of the Workers' Compensation Fund. I do not charge the Workers' Compensation Fund patients anymore then I do other patients and I think that my fees are well in line with the usual and customary fees charged to the private Insurance Companies and other Government Agencies such as Medicare. I am not aware of any other physician's in the State who are charging the Workers' Compensation Fund patients a higher fee then they are charging to other carriers in spite of the increased work that these patients generate. I think if the Workers' Compensation Fund finds it necessary to adopt a Medical Fee Schedule, the Physician has a right if not an obligation to refuse to participate with the care of these patients.

I would like to state that many of the fees published in your Medical Fee Schedule are in excess of what I charge the patient and the majority of the fees are only a little bit less then what I ususally charge. It should be obvious that I am not opposed to this on purely financial basis, I feel that it is an infringement on my rights as an individual practitioner. It is also my opinion that the Workers' Compensation Fund could save much more money by increasing efficiency. Frequently I wait four to six weeks to receive approval for surgery on a patient who remains temporarily totally disabled during the waiting period for approval and then is temporarily totally disabled for the recovery period following the surgery. In all fairness, I must say that this problem has been alleviated during your time as Commissioner.

In general, I would like to say that the new cost containment program sharply interferes with the physicians ability to efficiently treat patients. It would seem that the Workers' Compensation Fund suspects Physicians of charging inflated prices and frequently doing unnecessary procedures on the workers who are injured while on the job. The other state program that I have had experience such as this with is Vocational Rehabilitation in requiring approval for every cast, brace, procedure and follow up visit. I have found it nearly impossible to treat these patients and certainly the efficiency with which these patients can be treated is severely impaired. The necessity to receive approval for cast changes would certainly make the treatment of patients under Workers' Compensation just as difficult if not more so.

Sincerely,

Stephen I. Lester, M.D.

SIL/ldt

PHYSICAL THERAPY ASSOCIATES

ORTHOPEDIC AND SPORTS PHYSICAL THERAPY

John D. Bowles, P.T.

July 17, 1987

Mr. John F. Leaberry, Commissioner
W. Va. Workers' Compensation Fund
601 Morris Street
Charleston, W. Va. 25301

Dear Mr. Leaberry:

This letter is in response to your request for comments concerning a proposed legislative rule regarding the medical fee schedule under the new Medical Cost Containment System.

As a physical therapist, I, along with a number of my colleagues, utilize a system of evaluation, treatment, patient self-management and prophylaxis for mechanical spine pain syndromes. This system requires intensive and detailed patient education and relatively prolonged therapist-patient contact. When combined with the use of modalities which tend to enhance the effectiveness of the approach, 30 to 60 minutes of time and effort, are involved. I have usually and customarily charged $46.00 per visit for this service. The system, usually and customarily, works. And best of all, the patient comes to understand his back pain as well as the techniques and methods that improve his condition on a "makes sense" basis. He is therefore much more likely to perform and follow through with the procedures and maneuvers which make him better. This makes him responsible for the improvement and less dependent on the practitioner. Additionally, it reduces the likelihood of repeated episodes that are characteristic of mechanical spinal disorders.

Now, if I understand correctly, the method of medical cost containment you propose, because of its restrictions, in effect says that I must perform this same service for one third less charge. I view this as unfair and improper, especially in view of the methods of other practitioners who, usually and customarily, charge multiples of my fee for modality application alone without benefit of extensive patient

P.O. Box 1007 301 Morris St. Charleston, West Virginia, 25301
(304) 345-5210

education. By limiting the number of modalities and procedures I can use is in effect, dictating, which is not far from prescribing, patient treatment. By doing so, your limitations border on the practicing of physical therapy, if not the practice of medicine.

Sincerely,

John D. Bowles, P.T.

JDB/dw

Bill McGhee

SYED A. ZAHIR, M.D., F.A.A.O.S.

ORTHOPAEDIC AND HAND SURGERY

WOODLAND MEDICAL PARK
300 STANAFORD ROAD
BECKLEY, W. VA. 25801
PHONE (304) 255-6121

July 20, 1987

John F. Leaberry
Commissioner
Division of Workers Compensation Fund
601 Morris St.
Charleston, WV 25301

Dear Mr. Leaberry:

I am writing this letter in regards to the Medical Cost Containment System. The limits on the fees is totally unacceptable, I do feel that there are several areas where Workmans Compensation Fund can cut the cost and improve the service to the patient. One of the areas where attention needs to be put in is for authorization for any surgery and referral of the patient to another physician to provide the care which takes months before authorization is provided. Many times the patient simply is waiting to undergo a simple operation and the patient would go through Physical Therapy and would be placed back to work at a much earlier date. It is unfortunate that sometimes it would take almost 6 months to nine months before the authorization has been provided for the patient to be referred to another facility to provide treatment. I'm sure one can find a much simpler solution to solve this problem. A tremendous amount of benefits have to be provided to the patient for months without having any care provided to the patient.

The Fund has been frequently changing which is causing an increased billing cost.

I totally disagree with the ceiling on the fee schedule.

Sincerely,

Syed A. Zahir,M.D.

SAZ/rmd
7-21-87

Bill M. Tebo

KROGER FOOD STORES

P.O. Box 14002 Roanoke, Va 24038-4002

July 21, 1987

Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

RE: Medical Fee Schedule

It is unfortunate that the proposed Cost Containment System could not be implemented as scheduled. As Risk Manager for Kroger and as Vice Chairman for The West Virginia Self Insurers Association, I have watched closely the development of this system. This effort to contain escalating medical costs while providing the workers' compensation claimant with quality treatment and the provider with prompt payment is an effort that deserves praise.

The employer in West Virginia has very little control in a workers' compensation claim. While businesses establish in-house systems and departments to review and control business expenses, they must rely upon the workers' compensation fund to perform this service if claim costs are to be controlled. It is no secret that in the past, workers' compensation claim costs in the state have been viewed as excessive by businesses. This becomes an influencing factor when companies consider relocation.

A worker injured on-the-job deserves quality care and compensation for his lost earnings. The proposed Cost Containment System certainly does not jeopardize that. The employer deserves protection from unreasonable and excessive costs without incurring the additional cost of attorney fees as necessitated by formal hearings.

The proposed Cost Containment System can benefit the worker, the employer, and the State of West Virginia. It is a showing to the employer community that West Virginia can provide an environment conducive to profitable business operations. West Virginia is a state of hard working people, many of whom need jobs. The implementation of this system can be one step towards creating more jobs, and protecting existing jobs. No

business can survive without effective cost containment.

Respectfully,

Jim Reeves
Risk Manager

JORGE DE LA PIEDRA, M.D., F.I.C.S
PARK VIEW PROFESSIONAL BUILDING
PRINCETON, W VA. 24740

TRAUMATIC & ORTHOPEDIC SURGERY

TELEPHONE 425 4200

July 20, 1987

Mr. Nelson B. Robinson, Jr.
Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Robinson:

The purpose of this letter is to give my comments on the establishment of the Workers' Compensation Fund Medical Cost Containment System.

I feel that most, if not all, the surgery fees are much, much too low and in no way compensates the physician for the time and the work he devotes to his patients.

I also feel that the follow-up visits should not be included in surgical care and that these should be taken into consideration and be paid in full. Much time is involved, in most cases, in following the patients and in the cost of materials involved, etc.

I trust that the comments that I have made will be acted upon favorably.

Sincerely yours,

Jorge de la Piedra, M. D.

JP:mc

MODERN
MEDICAL INC.

July 22, 1987

The Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Dear Sirs,

We would like to address your proposal for an effective medical cost containment program.

Our company has found the above shift in the industry to be the most effective way to keep both the insurer and the insured happy. We offer our clients the best possible equipment and pricing in regards to Durable Medical Equipment. We are T.E.N.S. specialists.

If we may offer a bit of advice: cost containment must work directly with a solid follow-up system to obtain the maximum return on your investment.

We offer our expertise to you in the area of cost containment for Durable Medical Equipment. The enclosed information is provided for your convenience in contacting us.

Sincerely yours,

Allison W. Laurent
Operations Manager
Modern Medical Incorporated

1425 E. Dublin-Granville Rd. • Suite 105 • Columbus, Ohio 43229
(614) 436-7533 • 1-800-547-3330

MODERN
MEDICAL INC.

M O D E R N M E D I C A L

T.E.N.S. RENTAL/PURCHASE AGREEMENT

Section I. Transcutaneous Electrical Nerve Stimulator:

Brand of Unit	Manufacturer
Spectrum Max-SD	Medical Designs, Inc.
Dynex	LaJolla Technology
3M	3M Company

Available Programs:

1. Rental/Purchase Program
   a. $70.00 rental fee per month.
   b. Unit may be converted to purchase at any given time.
   c. All rent is applied toward purchase.
   d. Purchase price is $490.00.
   e. Upon renting unit for seven (7) consecutive months, unit converts to purchase program.

2. Purchase Program
   a. Spectrum Max-SD - Straight Purchase - $475.00.
   b. Dynex - Straight Purchase - $490.00
   c. 3M - Straight Purchase - $490.00

3. Home delivery and fitting by trained medical staff, where available.

4. Follow-Up Program
   a. First follow-up call (within 10 days) no charge.
   b. Rental/Purchase Program - Monthly follow-up call with progress report - $10.00.
   c. Purchase program - Quarterly follow-up call with progress report - $10.00.
   d. Home visit, where available, if necessary and authorized - $40.00.
   e. Modern Medical will attempt to contact patient by phone and, if necessary, by letter. The insurance company is responsible for rental fees regardless of our ability to contact patient.

5. Summary of progress reports will be submitted to insurance company.

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MEDICAL INC.

Section II. Supplies:

1. Discounts available on all supplies. (See Attachment A)
2. Rental supplies sent to patient on a monthly basis.
3. Purchase supplies sent to patient on a quarterly basis.
4. Progress report to reflect supply usage.
5. Supplies sent to patient - no charge for shipping and handling.

Section III. Unit Maintenance:

Available Programs:

1. Purchase program
   a. Units returned from patients will be refurbished at at rate of $25.00 per unit and inventoried by Modern Medical.
2. Rental Program
   a. No charge for unit retrieval.

Section IV. Warranty:

1. Spectrum Max-SD (Medical Designs) provides a five (5) year unlimited parts and labor warranty on the stimulator and dual battery charger.
2. Dynex (LaJolla Technology) provides a two (2) year limited warranty on parts and labor.
3. 3M (3M Company) provides a two (2) year limited warranty on parts and labor.

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MEDICAL INC.

Section V. Terms and Conditions:

1. The length of this agreement will be for 12 months.

2. If, during the agreement time, either party wishes to terminate this agreement, notice of same must be sent 60 days prior to anticipated termination date. This notice must be in writing, via certified mail.

3. Under Section V, number 2, above, in the event cancellation does occur, all existing patient accounts up to and including the actual termination date, must be current on payment. Any accounts that are past due after termination date will be assessed 1.5% service fee per month until the account is current.

4. In the event that other companies approach or present a program that would be construed as a competitor or supplier, Modern Medical will be given an opportunity to bid against that supplier prior to cancellation of our agreement.

5. This agreement will be automatically renewed at the end of the stated contract time. Unless Modern Medical is notified in writing via certified mail sixty (60) days prior to termination date of this agreement.

6. All patients must be pre-authorized for payment on unit and supplies. Providing additional forms to the insurance company other than those stated in this agreement; i.e., rental forms, prescription, medical necessity form etc., shall not be the responsibility of Modern Medical.

7. All accounts are due and payable in 30 days after receipt of product by patient.

8. All accounts past 60 days will be assessed 1.5% service fee per month.

9. All activity will be copied to your office upon request.

10. Items not covered in attachment A under TENS and supplies will be billed at current market prices inclusive of freight where applicable.

INSURANCE CARRIER

DATE: _____ By: _____

Its: _____

MODERN MEDICAL

DATE: _____ By: _____

Its: _____

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MODERN
MEDICAL INC.

MODERN MEDICAL
Price List

Attachment A

T.E.N.S UNITS:

Manufacturer	Model	Suggested Retail	Modern Medical	Savings	Per Rental
Medical Designs	Spectrum Max-SD	$675.00	$475.00	$200.00	$70.00
La Jolla Technology	Dynex II	645.00	490.00	155.00	70.00
3M Health Care Div.	3M 6265	645.00	490.00	155.00	70.00

T.E.N.S. ACCESSORIES:

Batteries and Battery Chargers

Description	Model	Quantity	Suggested Retail	Modern Medical	Savings
Spectrum Max-SD	Dual Battery Charger	Each	$25.00	$15.00	$10.00
Spectrum Max-SD	Rechargeable Battery 9V	Each	12.00	9.50	2.50
Dynex II	Single Battery Charger 110V	Each	20.00	15.00	5.00
Dynex II	Rechargeable Battery Pack	Each	45.00	33.75	11.25
3M 6265	Battery Charger	Each	40.00	34.00	6.00
3M 6265	Rechargeable Battery	Each	55.00	48.00	7.00

Lead Wires

Description	Model	Quantity	Suggested Retail	Modern Medical	Savings
Spectrum Max-SD	36" 2 Lead Wire	Each	$15.00	$11.25	$3.75
	48" 2 Lead Wire	Each	17.00	12.75	4.25
	36" 4 Lead Wire	Each	19.00	14.25	4.75
	48" 4 Lead Wire	Each	21.00	15.75	5.25
Dynex II	36" 2 Lead Wire	Each	15.00	11.25	3.75
	48" 2 Lead Wire	Each	15.00	11.25	3.75
	36" 4 Lead Wire	Each	20.00	15.00	5.00
	48" 4 Lead Wire	Each	25.00	18.75	6.25
3M 6265	30" 2 Lead Wire	Each	20.00	18.75	1.25
	40" 2 Lead Wire	Each	25.00	20.00	5.00

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MODERN
MEDICAL INC.

Modern Medical Price List
Attachment A
Page 2

T.E.N.S ACCESSORIES (Continued):

ELECTRODES AND MISCELLANEOUS SUPPLIES

Description	Stock Number	Quantity	Suggested Retail	Modern Medical	Savings
Disposable Products:					
MAI "The Protector"	141-KC*	40/pk	$65.00	$32.50	$32.50
Snap or Pin/ fit	142-KC*	40/pk	65.00	32.50	32.50
Extra Long Protector	146-XL*	4/pk	10.00	9.00	1.00
Snap or Pin/ fit	147-XL*	4/pk	10.00	9.00	1.00
Cloth Tape Patch	140-C*	50/pk	20.00	9.50	10.50
3-M Disposable Electr. (pin fit)	6220	10/pk	58.00	41.50	16.50
Reuseable Products:					
Carbon Silicone (pin/fit electrode)	131-CS	1/pr	10.00	7.50	2.50
Carbon Silicone (snap/fit electrode)	131-CR	1/pr	10.00	7.50	2.50
MAI Reuseable Electr. (1¼" x 1½")	243	4/pk	18.00	12.00	6.00
MAI Reuseable Electr. (2" x 2")	244	4/pk	27.50	18.00	9.50
Snap Adaptors (for pin/fit leads)	2249	1/pr	10.00	7.50	2.50
3-M Reuseable Electr. (pin fit)	6225	4/pk	18.45	17.00	1.45
Cleancote Protective Dressing Wipes	UP.220	50/bx	10.00	7.50	2.50
Adhesive Tape Remover	UP.225	100/bx	10.00	7.50	2.50
Uniderm Skin Cream		3oz.	6.00	5.00	1.00
Vitamin E Lotion		12oz.	7.50	5.50	2.00
Aloe gel		2oz.	6.00	4.75	1.25
Aloe gel		4oz.	10.00	7.00	3.00
Conductivity gel		3oz.	8.00	6.00	2.00

*These products available in Fleshtone or White

**These Prices are based on 30 day terms

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(614) 436-7533 • 1-800-547-3330

MODERN
MEDICAL INC.

Example of Approximate Annual Savings for 10 Units

Present Average Cost Per Unit:	10 @ $650.00 =	$6,500.00
Modern Medical	10 @ $475.00 =	4,570.00
	Savings	$1,750.00

Approximate Annual Supply Savings

Present Supply Cost Per Patient Per Quarter:	$225.00 x 10 =	$2,250.00	Quarterly
	Annual Cost	9,000.00	
Modern Medical Average Cost Per Patient:	$120.00 x 10 =	$1,200.00	Quarterly
	Annual Cost	4,800.00	
	Savings	$4,200.00	

COMBINED AVERAGE SAVINGS ANNUALLY

10 Units Cost Savings =		$1,750.00
Supply Savings		4,200.00
Total Savings	=	5,950.00
Less Modern Medical Follow-up		- 400.00
Total		$5,550.00

*** There is no charge for DELIVERY! ***

/lg

MM06

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(614) 436-7533 • 1-800-547-3330

MODERN
MEDICAL INC.

ADDITONAL ITEMS NOW AVAILABLE FROM MODERN MEDICAL!

	Retail	Modern Medical
Pain Suppressor PSL Model Rental $95.00 monthly	$795	$675
Neuro Muscular Stimulator	Retail	Modern Medical
	$790	$600

Respond II

Mentor Activator

Rental $90.00 monthly

	Retail	Modern Medical
As Always T.E.N.S. Units	$650	$475

Rental $70.00 monthly

ALL RENT APPLIES TOWARD PURCHASE

1425 E. Dublin-Granville Rd. • Suite 105 • Columbus, Ohio 43229
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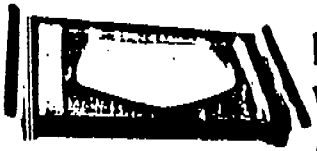
We are delighted to introduce the no fuss BACK BACK

BACK TO BACK
LUMBO-SACRAL SUPPORT

at the affordable price of $135.00 XX

MODEL #1095
THREE TIER BELT

None easier to mold!



INSERT IS PLACED DIRECTLY ON WARMING TRAY. NEW LAMINATED CLOTH SURFACE PREVENTS MELTING OF INSERT.

- THREE TIER ELASTIC BELT READILY ACCOMMODATES BODY MOVEMENTS
- EASY VELCRO CLOSURE

Hassle free fitting whether in hospital, store, or home

- ☐ Insert softens to a moldable consistency in 2 or 3 minutes.
- ☐ Press and form against sacral area.
- ☐ Place insert in pocket of belt.

SIZES: (Hip Measurement)

SMALL	MEDIUM	LARGE
30"-34"	35"-42"	43"-56"

Back Depth 9"

"Supporting America Since 1842"

WARMING TRAY INCLUDED

MODERN MEDICAL INC.

BELL-HORN

1425 E. Dublin-Granville Rd. • Suite 105 • Columbus, Ohio 43229
(614) 436-7533 • 1-800-547-3330

WILLIAM C MORGAN, JR., M.D., INC.

William C Morgan, Jr., M.D.
Otology
Diseases and Surgery of the Ear

Cari M. Thomas, M.Ed., CCC-A
Audiology
Hearing Aid Dispensing

July 27, 1987

Workers' Compensation Fund
John F. Leaberry, Commissioner
P.O. Box 3151
Charleston, WV 25332

Dear Commissioner Leaberry:

I am writing this letter in response to the proposed cost containment system for audiological and hearing aid services. There are several areas which I feel need to be reviewed further for the following reasons.

The suggested charge of $45.00 for the audiometric hearing exam is not a reasonable fee. Testing Compensation applicants is not the same as standard diagnostic testing. Compensation cases are more difficult to test than the ordinary patient. More time and attention is required to obtain accurate results; and on occasion, special testing is necessary. For these services, additional charges should be allowable. This would include tympanometry, which is **not** a routine procedure, along with pure tone Stenger, acoustic reflexes, and PB roll-over, when indicated. Many of these cases are difficult audiological diagnostic problems which require additional testing, relative to their compensability.

Further consideration should be given to the allowable charges in regard to hearing aid services. Hearing aid costs should be based on the single unit cost of the hearing aid, to ensure proper selection and fitting of patients. These people, by nature of their noise induced losses, are difficult to fit with standard hearing aids. Often, extra features are added to the basic hearing aid which will allow for more comfortable and accurate fittings. Unfortunately, these added features also increase the single unit cost of the hearing aid. It is not reasonable for the dispenser to absorb the additional cost for these difficult fittings. You must address the fact that the single inexpensive hearing aid will not suffice every patient's needs.

I would be glad to furnish any additional information you may need in order to develop a fair and reasonable cost containment system. Please do not hesitate to call and request our assistance.

Sincerely,

Cari Thomas, audiologist

Cari M. Thomas, M.Ed., CCC-A

CMT/bfe

ROBERT L. GHIZ, M.D. PRAKASH C. BANGANI, M.D. WILLIAM G. SALE, III, M.D.

GBS ORTHOPEDIC ASSOCIATES

ORTHOPEDIC AND HAND SURGERY

93 BROOKS STREET
CHARLESTON, W. VA. 25301
PHONE 343-4583

July 22, 1987

John F. Leasberry, Commissioner
Workers' Compensation Fund
601 Morris Street
P. O. Box 3151
Charleston, West Virginia 25332

Dear Commissioner:

We would like to comment on the Workers' Compensation Fund's new medical fee schedule. We have taken certain representative procedures and the fees for those particular procedures and compared them with our own. We have found a thirty-one percent reduction which we feel is unacceptable.

The treatment of a claimant under Workers' Compensation Fund is not easy and is by far the most difficult patient we have to manage. Considering this, our reimbursement fee should be higher not lower than what we charge the usual patient. The state law that grants injured workers temporary total disability payments is a real disincentive for these claimants to return to work. This is the problem, not physician's fees. These patients rarely admit to any improvement in spite of objective evidence to the contrary.

Your notice of June 30, 1987 said that this was "a medical cost containment system manual". We disagree with it being cost containment and in the long run may cost the Fund a great deal more. The best cost containment is good medicine. We think the schedule you have distributed discourages good practitioners from accepting claimants as patients. In particular, those physicians who treat back pain such as neurosurgeons and orthopedic surgeons will not be eager to accept these types of cases.

Certainly, if it is an economic disadvantage to treat these patients in addition to a compromised doctor-patient relationship, because of poor incentive to return-to-work, then very few of us will be willing to treat these patients if given the choice.

Very truly yours,

Robert L. Ghiz, M. D.

Prakash C. Bangani, M. D.

William G. Sale, III, M. D.

Peter J. Lukowski, M. D.

xc: Judith Greenwood
John Farley

Associated Physical Therapists, Inc.

Robert F. Jones, P.T.
Marj Weigel Jones, P.T.

1426 Sixth Avenue
Huntington, West Virginia 25701
Phone (304) 523-4555

July 21, 1987

Dear Mr. Leaberry.

Your most recent cost Containment Act limits Physical Therapists in providing prompt and thorough treatment. It discourages evaluation and hands on treatment, encouraging instead, modality type treatments that could be administered by aids.

The system does nothing to curtail reimbursement of Physical Therapy Services by non-licensed persons as mandated by the current State Physical Therapy Practice Act, nor does it limit costs for such services.

The majority of referring physicians welcome the evaluation services provided by licensed Physical Therapists and allow Therapists to use their own judgment in providing proper treatment. Many times it is by continually changing treatment procedures and progressing the patient through an active program that proves the quickest and best response to a dysfunction. Limiting treatment to two modalities or having to wait for authorization for more, is not allowing the patient to have the best possible care.

If cost alone is your main concern, I offer the following suggestions:

1. Limit reimbursement of Physical Therapy Services to licensed Physical Therapists.

2. Allow a committee of Physical Therapists to determine reasonable fees for services based on time and services rendered. They should also act as consultants for any further decisions made regarding Physical Therapy Services and Fees.

I would be glad to be of assistance to you and your agency.

Marj Weigel Jones P.T

Marj Weigel Jones, P.T.

Bill Mitchell

Medical Center Pharmacy
1029 Market St.
Parkersburg, West Virginia

July 25, 1987

Mr. John Leaberry
Commisioner
Workers Compensation Fund

Dear Sir:

You are really faced with a tremendous problem. To establish a pricing system for prescriptionswill take the wisdom of Solomom.

Regardless of whether a percentage mark up or a fee system is used, everyone will not be satisfied. A flat rate is is also not the best solution. The old system used by the Welfare Department based on AWP of 40%-331/3 or 25% seemed equitable and fair to the providers.

Your pricing in the past was most generous. The average operating expense of any drug store today would be somewhere between 27-28 % of total volume. Therefore it seems that the store should receive at least 33% markup on retail to show a profit. Profit is the name of the game.

If you send a directive to the prescribing physician to advocate the use of generic drugs, it would be a great saving in dollars to the state. Even if you allowed a larger percentage of markup to the provider.

Have you talked to any pharmacists who own a drug store to get their input?

If I can be of any help, please call me.

Yours truly,

Herb Gottlieb

Herb Gottlieb
Medical Center Pharmacy
1029 Market St.
Parkersburg, W.V. 26101

RECEIVED
JUL 29 1987
LEGAL DIVISION
W C F

RECEIVED
JUL 28 1987
W. VA. WORKERS' COMPENSATION FUND

Mr. Mitchell

The Lynn Drug Company
General Office
463 East Town Street
Columbus, Ohio 43215-4796
Telephone
614-224-2404

July 24, 1987

Workers Compensation Fund
P.O. Box 3151
Charleston, W. Va. 25332

Gentlemen:

Received the new pharmacy invoices for billings. However, received no billing instructions pertaining to the new form.

9 - Provider No., our Ohio Industrial billing provider number or what?

14 - Doctor provider No., the Doctor DEA No. or what number are you refering to?

26 - Brand name justification - is physician prescription state DAW if brand name is dispensed or just explanation as to why brand dispensed?

Upon receipt of your reply, we can rebill rejected claims plus current claims we are holding.

Thank you for your cooperation in this matter.

Sincerely,

Faye Reshan
Billing Supervisor

PS: Please give phone number where we can call for and needed information.

CHARLESTON PSYCHIATRIC GROUP, INC.
CPG

5600 MacCorkle Avenue, S.E., Suite 9, Charleston, WV 25304. (304) 925-0349

July 27, 1987

Mr. Nelson Robinson
Commissioner
Workers' Compensation Fund
P. O. Box 3151
Charleston, WV 25332

RE: Cost Containment-Quality Control, Utilization Review

Dear Mr. Robinson:

I proposed cost containment measures to two of your predecessors and no action was taken. I am bringing up the issue again because of the recent attempt by your agency to implement a fee schedule. I am opposed to the fee schedule method of cost containment because I do not think it can be workable. I have outlined several other proposals in the accompanying documents, and I would propose them again. I am sending a copy of this to the Secretary of State's office because of the lawsuit pending, to the West Virginia Medical Association attorney, Mr. Hoblitzell, and to the West Virginia Medical Association executive director, Mr. Schelten.

I hope that you will give these proposals careful consideration.

Sincerely,

Ralph S. Smith, Jr., M.D.
Psychiatrist

RSS/cc

cc: John Hoblitzell, Attorney at Law
Kay, Casto & Chaney
P.O. Box 2031, Chas., WV 25327

Ken Hechler, Secretary of State
State Capitol Building
Chas., WV 25305

Merwyn Schelten, Executive Director
WV State Medical Assoc.
P.O. Box 4100, Chas., WV 25364

Enc.

PSYCHIATRY
RALPH S. SMITH, JR., M. D.

RALPH S. SMITH, JR., M. D.
SUITE 9
5600 MacCORKLE AVENUE, S. E.
CHARLESTON, W. VA. 25304
TELEPHONE (304) 925-0349

PSYCHOLOGY
TERESA D. SMITH, PH.D.
WILLIAM R. HALL, M.A.

July 15, 1983

Ms. Gretchen Lewis
Commissioner
Worker's Compensation Fund
P. O. Box 3115
Charleston, W. Va. 25332

RE: Utilization Review/Quality Control/
Cost Containment.

Dear Ms. Lewis:

As per our conversation 7/13/83 by phone, I am giving you my thoughts about a proposal which could assist the Worker's Compensation Fund in the areas of quality control of medical treatment. I got interested in this because I am a "Peer Reviewer" for the American Psychiatric Association, along with several other physicians in West Virginia and many more throughout the United States. Our job is to review cases sent to us by our National Headquarters. These cases are usually in our District but not in our own community, so that we can be impartial about our opinions on the case. This systemm was originally set up for CHAMPUS, the insurance for dependents of active duty and retired military personnel. A number of other insurance companies have begun to use the APA Peer Review process. I am suggesting that a similar program for Worker's Compensation Fund in West Virginia could result in a higher level of medical treatment for the injured worker, could help eliminate abuses of treatment by certain practitioners, could serve as an educational function for the treating physician, and naturally lead to cost containment.

The way the system is set up currently is that short-term hospital stay for all patients is reviewed by the Utilization Review (previously called PSRO standing for Professional Standards Review Organization, now defunct) and this function is done in the hospital on a full time basis by nurses who initially review charts to see that criteria for reason for admission and length of stay are met. They determine this by protocols set up for various diagnoses. When they find that a case exceeds the boundaries set up by their protocols, these cases are referred to the physician on call that month in the particular speciality. He then reviews the chart and determines the medical necessity of the admission or continued treatment. Comments are made about the treatment itself and this serves as the educational function for the treating physician. New ideas may come forth, and if the case is inappropriate for continued care, insurance reimbursement ceases. There is an appeal process through the physician reviewer, the administrator, and eventually the governing board of the hospital as well as through the normal insurance channels.

The procedure in the Peer Review for psychiatry is that

also a nurse is involved at the Headquarters in reviewing cases to determine whether these cases should be in treatment and remain in treatment. Protocols have been devised for out patients as well as in patients and children in long-term residential treatment. If the case exceeds the nurses' protocol, the medical evidence is sent out to three reviewing psychiatrists who make a determination based on available evidence (written documentation) and their opinions are written back. The nurse then collates this, arrives at a negotiated mid point with the three reviewers and takes action (stop reimbursement, limit reimbursement to so many more treatments, retroactively deny, require periodic review at more frequent intervals, request for more data, etc.). I do not know if other specialties have a similar program, but I have a call in to Mr. Charles Lewis, Executive Director of the West Virginia Medical Association to investigate this for me. I have discussed this issue with Mr. John Farley and Dr. Judith Greenwood in your agency. Both seemed interested in the initial explanation. My idea would be for this to be more fully explored and presented to the Worker's Compensation Committee of the West Virginia State Medical Association. If we could get the cooperation and enthusiasm of the various specialties represented there, and you find this to be worthwhile exploring, we should have a meeting regarding it. Obviously specialized procedures, protocols, and someone to both plan and implement such a program would be necessary.

Sincerely,

Ralph S. Smith, Jr., M.D.
Psychiatrist

RSS/cc

PSYCHIATRY
RALPH S. SMITH, JR., M. D.

RALPH S. SMITH, JR., M. D.
SUITE 9
5600 MACCORKLE AVENUE, S. E.
CHARLESTON, W. VA. 25304
TELEPHONE (304) 925-0349

PSYCHOLOGY
TERESA D. SMITH, PH.D.

November 30, 1984

Mr. Timothy Huffman
Commissioner
Worker's Compensation Fund
P.O. Box 3151
Charleston, WV 25332

RE: Utilization Review/Quality Control, Cost Containment

Dear Mr. Huffman:

Enclosed are a copies of correspondence I started back July 1983 with your predecessor. I am still very much interested in this and have also some other issues to review for you.

I think the idea of a Peer Review either under the auspices of The West Virginia Medical Institute or under your own in-house program could be effective. I particularly think the development of an in-house program to be preferable, however, due to the special needs of your agency and for other issues that I am about to address. I would see the Peer Review/Quality Control/Utilization Review as a method for cost containment, to enhance the level of care being rendered for claimants, and to regulate and control in a modest fashion the health provider relationship with your organization. It would be necessary (in my opinion) to do the following things to make a viable program:

A. Set up standards for the (1) length of treatment for each diagnosis and (2) appropriate treatment for each diagnosis.

B. Establish review times for the case based on known recovery times plus one or two standard deviations. The initial review could be done by a clerk, then a nurse could be assigned the duty of more careful review, and if this could not resolve the issue, a physician specialist could review the data.

C. Establish review checklists and forms for clinicians or treating physicians to use and/or provisions for narrative summaries to be submitted to your agency at key points in the recovery process.

D. Establish in-house checklists to see that the established criteria are met and to be used by the clerk, nurse and physician specialist reviewing the case.

E. Require a second opinion in difficult cases to provide input to the treating physician as to alternative courses of action feasible for that

particular case.

F. Transfer cases from physicians who will not adhere to the program, abuse the program, those who consistently make patients worse, those who operate too frequently and those who have too many complications with their cases. Mr. Farley informed me that this would require an opinion from your Legal Division.

A related area I am interested in and one I have discussed with Mr. Farley is the development of operational criteria for the "temporary total disability" designation. The following are my ideas:

A. Instead of allowing (or making as the case may be) the treating physician determine "disability" (which only seems to perpetuate disability, and often puts him in a difficult bind with the patient; for if he states his patient is "disabled" he may never get him "enabled", and if he does not declare him "disabled", the angry patient will often request transfer to another physician who will declare him "disabled"), instead, retain the determination of disability as an administrative decision. This decision could be based on evidence of medical impairment. The ideas along these lines are not my own, but come from both the first and second edition (latest 1984) of "Guides To The Evaluation of Permanent Impairment", published by the American Medical Association. I think your disability examiners are in a better position to determine disability, even on a temporary basis, than the treating physician. They can be more "objective" and not subject to the pressures I described the physician is under. Also, it is helpful to have a person gather all the information on the variety of conditions a person may have, especially when they are being treated by several specialist physicians who each determine a minor but significant temporary impairment. These may all total up to a rather significant amount of impairment, albeit temporary. You can combine this knowledge with knowledge of economic factors or whatever other factors you and your agents determine to be operative in making the decision for "total disability". It seems to me that some doctors always see their patients as "totally disabled" when most other doctors examining the same patients would not, yet other physicians are loathe to designate "total disability" when most other physicians would. It is very hard to be objective when you are the treating physician.

B. Let specialist examiners help you draw up

operational criteria, which, when met for a particular case, would be evidence for significant enough medical impairment to assist in establishing the "total disability".

C. Consider temporary partial disability payments to those unable to work their regular job but who probably will be able to at a future date, but who could nevertheless work another job. This may amount to the same dollar amount as a "total disability" during a retraining program for those unable to return to their regular job.

D. Beef up the early intervention by private rehabilitation services and mandate their use at certain critical cut-off dates in the treatment process if progress isn't being made toward recovery.

E. Brainstorm strategy with specialists and administrative people on how to deal with the injury which leads to temporary total disability for a number of years, a resultant brief return to work, reinjury and reestablishment of temporary total disability, etc., etc.

I would like to assist in any way I can in implementing these suggestions if they are deemed worthy of merit.

Sincerely,

Ralph S. Smith, Jr., M.D.
Psychiatrist

RSS/cc
Enc.
cc: Mr. John Farley, Worker's Compensation
Ms. Judith Greenwood, Worker's Compensation

PSYCHIATRY
RALPH S. SMITH, JR., M. D.

RALPH S. SMITH, JR., M. D.
SUITE 9
5600 MACCORKLE AVENUE, S. E.
CHARLESTON, W. VA. 25304
TELEPHONE (304) 925-0348

PSYCHOLOGY
TERESA D. SMITH, PH.D.

November 30, 1984

Mr. Timothy Huffman
Commissioner
Worker's Compensation Fund
P.O. Box 3151
Charleston, WV 25332

RE: Utilization Review/Quality Control, Cost Containment

Dear Mr. Huffman:

Enclosed are a copies of correspondence I started back July 1983 with your predecessor. I am still very much interested in this and have also some other issues to review for you.

I think the idea of a Peer Review either under the auspices of The West Virginia Medical Institute or under your own in-house program could be effective. I particularly think the development of an in-house program to be preferable, however, due to the special needs of your agency and for other issues that I am about to address. I would see the Peer Review/Quality Control/Utilization Review as a method for cost containment, to enhance the level of care being rendered for claimants, and to regulate and control in a modest fashion the health provider relationship with your organization. It would be necessary (in my opinion) to do the following things to make a viable program:

A. Set up standards for the (1) length of treatment for each diagnosis and (2) appropriate treatment for each diagnosis.

B. Establish review times for the case based on known recovery times plus one or two standard deviations. The initial review could be done by a clerk, then a nurse could be assigned the duty of more careful review, and if this could not resolve the issue, a physician specialist could review the data.

C. Establish review checklists and forms for clinicians or treating physicians to use and/or provisions for narrative summaries to be submitted to your agency at key points in the recovery process.

D. Establish in-house checklists to see that the established criteria are met and to be used by the clerk, nurse and physician specialist reviewing the case.

E. Require a second opinion in difficult cases to provide input to the treating physician as to alternative courses of action feasible for that

particular case.

F. Transfer cases from physicians who will not adhere to the program, abuse the program, those who consistently make patients worse, those who operate too frequently and those who have too many complications with their cases. Mr. Farley informed me that this would require an opinion from your Legal Division.

A related area I am interested in and one I have discussed with Mr. Farley is the development of operational criteria for the "temporary total disability" designation. The following are my ideas:

A. Instead of allowing (or making as the case may be) the treating physician determine "disability" (which only seems to perpetuate disability, and often puts him in a difficult bind with the patient; for if he states his patient is "disabled" he may never get him "enabled", and if he does not declare him "disabled", the angry patient will often request transfer to another physician who will declare him "disabled"), instead, retain the determination of disability as an administrative decision. This decision could be based on evidence of medical impairment. The ideas along these lines are not my own, but come from both the first and second edition (latest 1984) of "Guides To The Evaluation of Permanent Impairment", published by the American Medical Association. I think your disability examiners are in a better position to determine disability, even on a temporary basis, than the treating physician. They can be more "objective" and not subject to the pressures I described the physician is under. Also, it is helpful to have a person gather all the information on the variety of conditions a person may have, especially when they are being treated by several specialist physicians who each determine a minor but significant temporary impairment. These may all total up to a rather significant amount of impairment, albeit temporary. You can combine this knowledge with knowledge of economic factors or whatever other factors you and your agents determine to be operative in making the decision for "total disability". It seems to me that some doctors always see their patients as "totally disabled" when most other doctors examining the same patients would not, yet other physicians are loathe to designate "total disability" when most other physicians would. It is very hard to be objective when you are the treating physician.

B. Let specialist examiners help you draw up

operational criteria, which, when met for a particular case, would be evidence for significant enough medical impairment to assist in establishing the "total disability".

C. Consider temporary partial disability payments to those unable to work their regular job but who probably will be able to at a future date, but who could nevertheless work another job. This may amount to the same dollar amount as a "total disability" during a retraining program for those unable to return to their regular job.

D. Beef up the early intervention by private rehabilitation services and mandate their use at certain critical cut-off dates in the treatment process if progress isn't being made toward recovery.

E. Brainstorm strategy with specialists and administrative people on how to deal with the injury which leads to temporary total disability for a number of years, a resultant brief return to work, reinjury and reestablishment of temporary total disability, etc., etc.

I would like to assist in any way I can in implementing these suggestions if they are deemed worthy of merit.

Sincerely,

Ralph S. Smith, Jr., M.D.
Psychiatrist

RSS/cc
Enc.
cc: Mr. John Farley, Worker's Compensation
Ms. Judith Greenwood, Worker's Compensation

Judith Greenwood
Director of Research and Development
WORKERS' COMPENSATION FUND

9-23
Ralph -
FYI. Have had no response yet.

PSYCHOLOGY
TERESA D. SMITH, Ph.D.
WILLIAM R. HALL, M.A.

September 13, 1983

Gretchen,

Ralph's concept is nothing small, and as described, I am not quite sure what specifically he is proposing in terms of utilization review for compensation cases; hospital stays only or some kind of broader review, perhaps related to specific diagnoses such as herniated disc. Generally, however, the concept of peer review would seem to compliment our planned system cost containment function. There also appears to be some relationship to the "120 day referrals." Either peer review could referee the 120 day referral exam as now performed, or possibly the peer review method could be modified to function as the "120 day referral" based upon the treating physician's documentation.

Overall, there seems to be opportunity in Ralph's concept given, as he says, the "corporation and enthusiasm of various specialties" in the state through the Medical Association. I don't know where to go from here. Ralph refers to a Workers' Compensation Committee of the State Medical Association. Is there one? Anyway, perhaps Ralph would like to assess the interest of other specialists and organize a meeting for beginning to design a peer review function.

fcl

cc: John Farley

n Review/Quality Control/
ipment.

I am giving you my
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Peer Review
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n, and naturally

Send to Ralph Smith, M.D.

then reviews the chart and determine
the admission or continued treatment
the treatment itself and this serves
for the treating physician. New ide
case is inappropriate for continued
ceases. There is an appeal process
reviewer, the administrator, and eve
of the hospital as well as through the normal insurance channels.

The procedure in the Peer Review for psychiatry is that

Gretchen O. Lewis
Workers' Compensation Commissioner

John & Judy -

Your thoughts, please.

G.

8/30

(COPY)

WEST VIRGINIA STATE MEDICAL ASSOCIATION

BOX 1031, CHARLESTON, WEST VIRGINIA 25324

PHONE: (304) 346-0551

November 28, 1983

The Honorable Gretchen O. Lewis
Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Commissioner:

Your letter of October 25 to Carl R. Adkins, M.D., President of the West Virginia State Medical Association, has been referred to me for a response. You'll recall the letter asked for some peer review assistance from physicians in a medical utilization process planned as part of a cost-containment sub-system within the Fund.

The Medical Association Executive Committee, chaired by Doctor Adkins, discussed the request at a November 19 meeting, and suggested that the West Virginia Medical Institute, Inc., probably would be best equipped to design and work with you in such a review program.

That is because, in large measure, of the Institute's broad appropriateness, necessity and quality review activity over the past several years as the Professional Standards Review Organization (PSRO) in West Virginia. Among other things, the Institute has considerable data gathering capability and experience.

Accordingly, may I respectfully suggest that you redirect your request, with perhaps a bit more detail regarding what you propose, to Harry S. Weeks, Jr., M.D., President, West Virginia Medical Institute, Inc., 3412 Chesterfield Avenue, S. E., Charleston 25304.

I'll be happy to provide what help I can in getting you, Judy, John or others in touch as you might desire with the Institute staff and/or others as this utilization review effort takes shape. I'm also providing Doctor Weeks with a copy of your October 25 letter to Doctor Adkins.

(COPY)

WEST VIRGINIA STATE MEDICAL ASSOCIATION

BOX 1031, CHARLESTON, WEST VIRGINIA 25324

PHONE: (304) 346-0581

The Honorable Gretchen O. Lewis

November 28, 1983

With sincere gratitude for all the help and consideration you have shown me and the Association, and with best wishes, I am

Sincerely,

Charles R. Lewis
Executive Secretary

CRL/mwh

CC: John Farley
Judith Greenwood, Ph.D.
vRalph S. Smith, Jr., M.D.
Harry S. Weeks, Jr., M.D.

WORKERS' COMPENSATION FUND

601 MORRIS STREET
CHARLESTON, WEST VIRGINIA 25301

JOHN D. ROCKEFELLER IV
Governor

GRETCHEN O. LEWIS
Commissioner

October 25, 1983

Carl R. Adkins
110 Platt Street
Fayetteville, West Virginia 25840

Dear Dr. Adkins,

As you are probably aware, the Workers' Compensation Fund is planning to implement a cost-containment system as part of a wider computer-based management system for our employer accounts and individual claims. A part of the cost-containment sub-system is medical utilization review. Because of the critical need for defensable and acceptable review standards, I would like to request that the West Virginia Medical Association working through the Workers' Compensation Committee consider procedures for developing a peer review process that could be put in place to assist the Fund in the area of quality control of medical treatment received by claimants.

Dr. Ralph Smith has proposed adapting the peer review process used by American Psychiatric Association. Dr. Smith has also discussed his interest in working on the development of peer review procedures with Mr. John Farley, Director of Claims Management, and Dr. Judith Greenwood, Director of Research and Development, who concur on the need for such procedures. If the specialty interests and the members of the Medical Association were to undertake such an effort, we would collaborate fully, supplying the necessary support services.

Thank you for your consideration of my request, and I look forward to your reply. With best regards,

Sincerely,

Gretchen O. Lewis

Gretchen O. Lewis
Commissioner

GOL/JGG/cl

cc: John Farley
Judith Greenwood, Ph.D.
Charles Lewis
Ralph Smith, M.D.

JOHN A. DRAPER, JR., M.D.
Orthopedic Surgery
309 Clifton Court
Box 1968
Martinsburg, WV 25401

(304) 263-0952

July 27, 1987

John F. Leaberry
Commissioner
Worker's Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Leaberry:

I was appalled at the proposed changes in the fee schedule that were recently made public for orthopedic surgery and fracture treatment. If anything, the fees for work related injuries should be higher than for non-work related injuries because work related injuries usually require more after care, involve frequent long distance phone calls to Charleston at my expense to get authorization for this or that, take up a great deal of my staff's time in filling out forms and writing letters to your office and to employers and frequently get me involved in disputes between the patient, the employer, and Worker's Compensation. In spite of all this, I have been charging the same thing for the treatment of injuries covered by the Worker's Compensation Fund that I charge for my other patients who are not under this system. As anyone who is familiar with the liability insurance situation in West Virginia, is well aware the liability premiums for orthopedic surgeons are rising at a preposterous rate and my fees for all of my patients are going to be increased accordingly. An orthopedic surgeon's liability insurance premiums are high because he does surgery and because he treats fractures and these are the two things that you are proposing to reduce payments on. This defies all logic.

I simply cannot afford a reduction in payments for surgery and fracture care for patients covered by the Worker's Compensation Fund. I am sure virtually every other orthopedic surgeon in the state of West Virginia is in the same situation that I am in with regard to increasing liability insurance premiums and increasing overhead expenses. If this ridiculous fee schedule actually goes into practice, I will simply be forced to start charging for things that I am now not charging for to make up the difference. I predict that this fanciful and poorly thought out fee schedule will ultimately wind up costing the Worker's Compensation Fund more in the long run than simply continuing the present system would. I feel that it will turn out to be simply another case of false economy, which is the last thing that the state of West Virginia needs at this time.

Sincerely yours,

John A. Draper, Jr.

John A. Draper, Jr., M.D.

JAD/cas

cc: file

JOHN A. DRAPER, JR., M.D.
Orthopedic Surgery
309 Cliffton Court
Box 1968
Martinsburg, WV 25401

Bill Mitchell

John F. Leaberry
Commissioner
Worker's Compensation Fund
601 Morris Street
Charleston, WV 25301

WINCHESTER ORTHOPAEDIC ASSOCIATES, LTD.
H. GEORGE WHITE, JR., M.D., F.A.C.S.
THOMAS J. SCHULZ, M.D., F.A.C.S.
DENNIS W. WISE, M.D., F.A.C.S.
BENJAMIN V. REZBA, M.D.
ROBERT H. SCHMIDT, M.D.

TELEPHONE
(703) 667-8875

P.O. BOX 2217
128 MEDICAL CIRCLE
WINCHESTER, VIRGINIA 22601

July 27, 1987

Mr. John F. Leaberry, Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Re: Comment re: Proposed Legislative Rule/Medical Fee Schedule

Dear Mr. Leaberry:

Thank you for giving us the opportunity to comment on the proposed Workers' Compensation Fund Medical Cost Containment System.

Located as we are in Winchester, Virginia, we have been asked for some years to provide orthopaedic care for many of your patients from the Eastern Panhandle counties of Berkeley, Morgan, Jefferson, Hardy, Grant and Hampshire. We hope to be able to continue to provide that care.

We have analyzed the proposed system carefully, and understand the research that has obviously been done to arrive at the proposed fee schedule.

We do not disagree with your requirements for pre-authorization for surgery, and we have been observing these for many years. We do find your paperwork requirements for disability benefits cumbersome and time-consuming for both our physicians and our staff. We recognize the economic necessity to return the work-injured patient to work as soon as possible, and we try to relate that need to quality medical care for the patient. The paperwork required by your system inevitably adds to the cost of treating your patients, as compared with private pay patients or other third party payers, including Virginia Workers' Compensation carriers.

When we determine our fees, consideration is given to the time we spend with our patients, the intensity of our care, the skill required for a given procedure, as well as to the cost of operating our practice and the cost of preparation and training time for our associates.

We note that 74% of the surgical codes compared provide for a follow-up period of 60-180 days included in the surgical fee. This effectively diminishes the allowance for surgery.

Combined with the significant time spent by the physician and his staff on paperwork relating to your system and in communication with your patients about the requirements of the system, the net result is a significant reduction in fees.

As our costs increase and the revenues allowed by you decrease, your fixed fee schedule will become less and less attractive; therefore, it seems inevitable that at some time in the future consideration will be given to informing you that we will no longer accept West Virginia Workers' Compensation patients.

Sincerely yours,

H. George White, Jr., M.D.

HGW/ah

WINCHESTER ORTHOPAEDIC ASSOCIATES, LTD.
P. O. BOX 2217
128 MEDICAL CIRCLE
WINCHESTIER, VIRGINIA 22601

Bill Mitchell

Mr. John F. Leaberry, Commissioner
Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Re: Proposed Legislative Rule/Medical Fee Schedule

WEST VIRGINIA
MEDICAL EQUIPMENT SUPPLIERS ASSOCIATION

P.O. Box 6202, Charleston, WV 25362

July 29, 1987

John Farley
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Farley,

Enclosed is a WVMESA position paper in response to the invitation for advice and comments on the West Virginia Workers' Compensation Medical Cost Containment System Manual to be filed in August 1987.

This position paper has been approved for submission to the West Virginia Workers' Compensation Fund by the WVMESA membership at the quarterly meeting held in Charleston on July 29, 1987.

Sincerely,

Tim Hare

Timothy J. Hare
President, WVMESA

Enclosure

WEST VIRGINIA WORKERS' COMPENSATION

MEDICAL COST MANAGEMENT SYSTEM

POSITION PAPER

WV MEDICAL EQUIPMENT SUPPLIERS ASSOCIATION

The West Virginia Medical Equipment Suppliers Association is an association of dealers of medical equipment and services. The association is four years old and is comprised of approximately 25 dealers in West Virginia.

WVMESA supports the efforts of Workers' Compensation to install a cost management system to save the employer's of this state unnecessary expenditures.

We believe the following changes would benefit the Workers' Compensation Fund, the claimant and the vendor community, and therefore we petition you to make the following changes to the proposed cost management system.

RENT_PURCHASE

The proposed rent/purchase method of acquiring equipment is not in keeping with any industry standards. The suggested system of all rental payments applying to the purchase is totally unfair to the vendor and puts the vendor at risk for a decision he is not responsible for making.

The long-standing rental housing market, equipment rental and auto rental industries are proof that applying rent to purchase without consideration of interest in an installment purchase agreement is unfair. We believe that the following is a just method and provides for risk sharing and also will manage costs.

Rental of equipment will be for a maximum of two months before a rent/purchase decision is made by Workers' Compensation. The two month period is suggested to allow the claimant to evaluate the appropriateness of the rental equipment and for the physician and Workers' Compensation Fund to evaluate the long term need for the equipment. Any time within the first two months rental that Workers' Compensation decides to purchase the equipment, all rental charges would be applied to the purchase price. A decision by Workers' Compensation to continue rental in excess of two months would yield no further rental payments being applied toward the purchase price.

FEE SCHEDULE

As a whole, the purchase/rental fees are appropriate, however consideration to raising the fees for TENS and wheelchairs would allow fund claimants to obtain the same level of quality equipment that the fund has provided in the past. Lower priced equipment in these categories are available but not with the same American-made quality and warranties as you have purchased in the past.

RESPIRATORY EQUIPMENT

It is the position of WVMESA, HCFA, NAMES, the U.S. Congress and certain National studies (G.A.O. and the Williams College Study) that the purchase of respiratory and respiratory related equipment and supplies, and required back up equipment, may in fact prove less cost effective when one takes into consideration the highly technical nature of the equipment, the controlled drug prescription aspect; the Federal regulatory requirements related to equipment testing; the equipment technicians and respiratory therapists required to make periodic visitations; and the unforseen costly emergency situations that routinely occur.

WVMESA strongly urges West Virginia Workers' Compensation to vacate its proposal to acquire respiratory equipment, and work with WVMESA to establish a rental protocol that is equally cost effective.

The above suggestions are believed to be just and equitable to all. If further clarification is necessary, please do not hesitate to contact WVMESA.

Greenbrier Respiratory
Care Services Inc.
P.O. BOX 809 LEWISBURG, WEST VIRGINIA 24901
(304) 645-1065

July 30, 1987

John Farley
Worker's Compensation Fund
601 Morris Street
Charleston, WV 25301

Mr. Farley,

I would like to thank you for your time and consideration for the meeting with the Board of Directors of the West Virginia Medical Equipment Suppliers Association. The purpose of my letter is to make comments prior to the July 31 deadline on the Worker's Compensation's Cost Containment Program. The comments I am making have not been voted on by our Board. I was unable to attend our meeting when the position paper was written. These are my own comments and the position of my company, Greenbrier Respiratory Care Services, Inc.

I would like to address the area of reimbursement for respiratory equipment and particularly oxygen reimbursement. I agree with you that paying three million a year for 600 concentrators is ridiculous.

The first point I would like to make is that oxygen is a life sustaining product which in my opinion would deserve a little different consideration than a wheelchair or hospital bed. It requires much more patient education and training to use than other pieces of medical equipment, i.e. walker or bed. It is necessary to have support systems in place of these systems. Must have 24 hour call system and a back-up system for power failure. There must be follow-up to assure that the patient is using the oxygen as prescribed. The machine must also be monitored to assure it is putting out the proper oxygen concentration on a regular basis.

I think another area that needs to be looked at closely is medical review for oxygen. I think some very specific, objective criteria should be developed and met before authorizing payment for oxygen concentrators or cylinders. This alone would probably significantly reduce these 600 already out there. Secondly I think developing a reasonable allowed amount for each item should be developed. For example, the industry average for oxygen concentrators is $300.00 rent per month. If this were the maximum rental reimbursement for this item, this alone would save the Fund one million dollars. I feel certain these two suggestions would save the Funds at least 1.5 million dollars.

Greenbrier Respiratory
Care Services Inc.
P.O. BOX 809 LEWISBURG, WEST VIRGINIA 24901
(304) 645-1065

If you do decide to continue along the lines of purchasing the concentrators, I think you would want a regular maintenance agreement on each machine. I can see and have seen many problems with these. What is covered as routine maintenance? Your repairs and service cost can be very high. Are you going to be able to verify the service and repairs done? And were they necessary? Will you rent another machine while their's is being repaired? What about pick-up and delivery charges? The realistic life span of an oxygen concentrator is three years. After three years the maintenance and repair expense would exceed the actual residual worth of the equipment. If the Funds were renting the equipment, it would be up to the dealer to replace the equipment as necessary.

I see your goals as wanting to provide your beneficiaries with top quality care at the best price. I feel sure these two objectives can be met by continuing to rent oxygen concentrators if you develop strict medical guidelines and develop maximum reimbursement levels. I know the dealers can make a reasonable profit with this method and continue to provide top quality patient care at an affordable price.

I hope these comments and suggestions are of some benefit. If I may be of any help or assitance to you in the developement of your program, I would be glad to help.

Sincerely,

Allen Carson, RRT

Allen Carson, RRT
President

Charleston Eye Care Associates Inc.

George E. Toma, M.D., FACS Stephen P. Cassis, M.

June 27, 1987

John E. Farley
Workers' Compensation Fund
P.O. Box 3151
Charleston, WV 25321

Dear Mr. Farley,

I have reviewed this date, the proposed fee schedules for ophthalmology, promulgated by the Workers' Compensation Fund. In general I am in agreement with the plan in the more rational way of figuring medical fee reimbursement.

I do feel that a raise in the unit reimbursement from $75.00 to $85.00 or $90.00 would be appropriate but I also feel that an increase to $7.00 or $8.00 in the medical reimbursement unit value would be appropriate.

Over all however, I feel that the relative value proposal is reasonable and hopefully the legislation will include a reasonable procedure for adjusting fees either individually or across the board should the situation warrant adjustments.

Cordially,

George E. Toma, M.D.

George E. Toma

GET/vlg

St. Francis Medical Plaza, 351 Laidley St., Suite 102, Charleston, W.V. 25301 304 • 344 • 3937
4430 Kanawha Turnpike, So. Charleston, W. 25309 304 • 768 • 0068

Bill
M.Fee

From

Prasadarao B. Mukkamala M.D
1200 Quarrier St Suite 25
Charleston, W.V 25301

To

The Commissioner
W.V Workers Compensation Fund
601 Morris St
Charleston, W.V 25301

Dear Mr. Commissioner,

Subject: Medical fee Schedule

I am submitting my comments regarding "Medical fee Schedule". At the outset let me start by mentioning that the fees that Compensation fund developed are too low.

When we consider our high office overhead expenses and the enormous time that we need to spend with the claimants the meager fees that you are allowing are not fair compensation.

I can not continue to offer quality medical care to injured workers at such meager rates of compensation.

The injured workers deserve the best in medical care and it is not fair for compensation to develop improper fee schedules like thse which will lead to "deprivation of proper medical care" for the injured workers.

Please adjust your fee schedule to reflect our suggestions. I am submitting items of interest to me and I am suggesting unit values which I think will be reasonable in red ink.

Your sincerely,

(Prasadarao B. Mukkamala)

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
	CPT-4			
90580	Comprehensive service	BR		
90590	Physician direction of emergency medical systems (EMS) emergency care, advanced life support	BR		
90600	Initial consultation; limited	9.00	14-0	
90605	Initial consultation; intermediate	11.00	17-0	
90610	Initial consultation; extensive	13.00	20-0	
90620	Initial consultation; comprehensive	17.00	24-0	
90630	Initial consultation; complex	22.00	30-0	
90640	Follow-up consultation; brief	4.60	7-0	
90641	Follow-up consultation; limited	6.30	9-0	
90642	Follow-up consultation; intermediate	9.10	12-0	
90643	Follow-up consultation; complex	13.40	16-0	
90650	Confirmatory consultation; limited	9.90		
90651	Confirmatory consultation; intermediate	13.00		
90652	Confirmatory consultation; extensive	15.40		
90653	Confirmatory consultation; comprehensive	21.90		
90654	Confirmatory consultation; complex	BR		
90699	Unlisted medical service, general	BR		
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)	4.00		
90702	Immunization, active; diphtheria and tetanus toxoids (DT)	2.00		
90703	Immunization, active; tetanus toxoid	2.50		
90704	Immunization, active; mumps virus vaccine, live	BR		

CPT-4

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
90350	Limited service	8.70	11-C	
90360	Intermediate service	11.00	14-C	
90370	Extended service	13.00	17-C	
90400	Brief service	5.10	9-C	
90410	Limited service	7.00	11-C	
90415	Intermediate service	9.10	14-C	
90420	Comprehensive service	12.80	18-C	
90430	Minimal service	4.10	7-C	
90440	Brief service	5.60	9-C	
90450	Limited service	7.00	11-C	
90460	Intermediate service	8.00	14-C	
90470	Extended service	10.00	17-C	
90500	Minimal service	5.10	9-C	
90505	Brief service	6.80	11-C	
90510	Limited service	7.80	14-C	
90515	Intermediate service	10.40	17-C	
90517	Extended service	13.00	20-C	
90520	Comprehensive service	16.00	24-C	
90530	Minimal service	3.40	6-C	
90540	Brief service	4.20	9-C	
90550	Limited service	5.10	10-C	
90560	Intermediate service	6.00	12-C	
90570	Extended service	8.80	15-C	

CPT-4		West Virginia Workers' Compensation Fund		
Proc. Code	Procedure Description	Unit Value	Follow-up Days	Anesthesia Base Units
	of diagnostic and treatment programs, and preparation of hospital records			
90220	Comprehensive history and examination, initiation of diagnostic and treatment programs, and preparation of hospital records	18.50	25.5	
90225	History and examination of the normal newborn infant, initiation of diagnostic and treatment programs and preparation of hospital records birthing room deliveries)	BR		
90240	Each day, hospital subsequent care requiring; brief services	3.90	7-C	
90250	Each day, hospital subsequent care requiring; limited services	5.20	9-C	
90260	Each day, hospital subsequent care requiring: intermediate services	6.50	10-C	
90270	Each day, hospital subsequent care requiring; extended services	10.00	15-C	
90280	Each day, hospital subsequent care requiring; comprehensive services	13.60	20-C	
90282	Each day, hospital subsequent care requiring; normal newborn serices	BR		
90292	Hospital discharge day management	8.70	15-C	
90300	Brief history and physical examination, initiation of diagnostic and treatment programs, and preparation of hospital records	8.50	12-C	
90315	Intermediate history and physical examination, initiation of diagnostic and treatment programs, and preparation of hospital records	13.00	16-C	
90320	Comprehensive history and physical examination, initiation of diagnostic and treatment programs, and preparation of hospital records	17.50	20-C	
90340	Brief service	6.10	10-C	

CPT-4

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
90000	Brief service	5.90	9-0	
90010	Limited service	7.60	11-0	
90015	Intermediate service	10.50	14-0	
90017	Extended service	12.80	16-0	
90020	Comprehensive service	17.50	21-0	
90030	Minimal service	2.90	6-0	
90040	Brief service	3.80	9-0	
90050	Limited service	5.20	11-0	
90060	Intermediate service	6.50	12-0	
90070	Extended service	8.70	15-0	
90080	Comprehensive service	13.00	18-0	
90100	Brief service	6.00	9-0	
90110	Limited service	8.60	11-0	
90115	Intermediate service	11.10	14-0	
90117	Extended service	13.70	17-0	
90130	Minimal service	4.30	7-0	
90140	Brief service	6.00	9-0	
90150	Limited service	6.80	11-0	
90160	Intermediate service	9.40	13-0	
90170	Extended service	12.00	15-0	
90200	Brief history and examination, initiation of diagnostic and treatment programs, and preparation of hospital records	12.80	16-0	
90215	Intermediate history and examination, initiation	15.50	20-0	

CPT-4		West Virginia Workers' Compensation Fund		
Proc. Code	Procedure Description	Unit Value	Follow-up Days	Anesthesia Base Units
95160	Professional services for the supervision and provision of antigens for allergen immunotherapy (specify number of treatments or total volume): stinging insect venom, multiple dose vials	6.00		
95180	Rapid desensitization procedure, each hour (eg, insulin, penicillin, horse serum)	BR		
95199	Unlisted allergy/clinical immunologic service or procedure	BR		
95819	Electroencephalogram (EEG) including recording awake, drowsy, and asleep, with hyperventilation and/or photic stimulation; standard or portable, same facility	20.00		
95821	Electroencephalogram (EEG) including recording awake, drowsy, and asleep, with hyperventilation and/or photic stimulation; portable, to an alternate facility	30.00		
95822	Electroencephalogram (EEG); sleep only	30.00		
95823	Electroencephalogram (EEG); physical or pharmacological activation only	30.00		
95824	Electroencephalogram (EEG); cerebral death evaluation recording only	30.00		
95826	Electroencephalogram (EEG); intracerebral (depth) EEG only	30.00		
95827	Electroencephalogram (EEG); all night sleep recording only	40.00		
95828	Polysomnography (recording, analysis and interpretation of the multiple simultaneous physiological measurements of sleep)	BR		
95829	Electrocorticogram at surgery (separate procedure)	BR		
95830	Insertion by physician of sphenoidal electrodes for electroencephalographic (EEG) recording	BR		
95831	Muscle testing, manual (separate procedure);	5.00	IC+C	

CPT-4 Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
	extremity (excluding hand) or trunk, with report			
95832	Muscle testing, manual (separate procedure); hand (with or without comparison with normal side)	3.00	5-0	
95833	Muscle testing, manual (separate procedure); total evaluation of body, excluding hands	10.00	15-0	
95834	Muscle testing, manual (separate procedure); total evaluation of body, including hands	15.00	20-0	
95842	Muscle testing, electrical: reaction of degeneration, chronaxy, galvanic/tetanus ratio, one or more extremities, one or more methods	8.00	12-0	
95851	Range of motion measurements and report (separate procedure); each extremity, excluding hand	3.40	6-0	
95852	Range of motion measurements and report (separate procedure); hand, with or without comparison with normal side	4.10	6-0	
95857	Tensilon test for myasthenia gravis;	8.70		
95858	Tensilon test for myasthenia gravis; with electromyographic recording	10.30	20-0	
95860	Electromyography; one extremity and related paraspinal areas	17.10	26-0	
95861	Electromyography; two extremities and related paraspinal areas	27.00	35-0	
95863	Electromyography; three extremities and related paraspinal areas	35.90	43-0	
95864	Electromyography; four extremities and related paraspinal areas	44.40	53-0	
95867	Electromyography, cranial nerve supplied muscles; unilateral	21.20		
95868	Electromyography, cranial nerve supplied muscles; bilateral	31.80		

CPT-4		West Virginia Workers' Compensation Fund		
Proc. Code	Procedure Description	Unit Value	Follow-up Days	Anesthesia Base Units
95869	Electromyography, limited study of specific muscles (eg, thoracic spinal muscles)	17.10		
95875	Ischemic forearm exercise test	4.30	9-00	
95880	Assessment of higher cerebral function with medical interpretation; aphasia testing	10.60		
95881	Assessment of higher cerebral function with medical interpretation; developmental testing	6.40		
95882	Assessment of higher cerebral function with medical interpretation; cognitive testing and others	6.40		
95900	Nerve conduction, velocity and/or latency study; motor, each nerve	6.80	9-0	
95904	Nerve conduction, velocity and/or latency study; sensory, each nerve	5.10	9 6-0	
95925	Somatosensory testing (eg, cerebral evoked potentials), one or more nerves	36.10		
95933	Orbicularis oculi (blink) reflex, by electrodiagnostic testing	BR		
95935	''H'' reflex, by electrodiagnostic testing	9.40	12-0	
95937	Neuromuscular junction testing (repetitive stimulation, paired stimuli), each nerve, any one method	BR		
95950	Monitoring for localization of cerebral seizure focus, by attached electrodes or radiotelemetry; electroencephalographic (EEG) recording and interpretation, initial 24 hours	BR		
95951	Monitoring for localization of cerebral seizure focus, by attached electrodes or radiotelemetry; combined electroencephalographic (EEG) and videorecording and interpretation, initial 24 hours	BR		
95952	Monitoring for localization of cerebral seizure	BR		

CPT-4		West Virginia Workers' Compensation Fund		
Proc. Code	Procedure Description	Unit Value	Follow-up Days	Anesthesia Base Units
	single or multiple agents, administered by physician			
96545	Provision of chemotherapy agent	BR		
96549	Unlisted chemotherapy procedure	BR		
96900	Actinotherapy (ultraviolet light)	50.00		
96910	Photochemotherapy; tar and ultraviolet B (Goeckerman treatment)	5.00		
96912	Photochemotherapy; psoralens and ultraviolet A (PUVA)	5.00		
96999	Unlisted special dermatological service or procedure	BR		
97010	Physical medicine treatment to one area; hot or cold packs	2.60		
97012	Physical medicine treatment to one area; traction, mechanical	2.60		
97014	Physical medicine treatment to one area; electrical stimulation (unattended)	2.60		
97016	Physical medicine treatment to one area; vasopneumatic devices	2.60		
97018	Physical medicine treatment to one area; paraffin bath	2.60		
97020	Physical medicine treatment to one area; microwave	2.60		
97022	Physical medicine treatment to one area; whirlpool	2.60		
97024	Physical medicine treatment to one area; diathermy	2.60		
97026	Physical medicine treatment to one area; infrared	2.60		
97028	Physical medicine treatment to one area; ultraviolet	2.60		
97039	Physical medicine treatment to one area; unlisted	BR		

CPT-4		West Virginia Workers' Compensation Fund		
Proc. Code	Procedure Description	Unit Value	Follow-up Days	Anesthesia Base Units
97240	Pool therapy or Hubbard tank with therapeutic exercises; initial 30 minutes, each visit	4.00	8-0	
97241	Pool therapy or Hubbard tank with therapeutic exercises; each additional 15 minutes, up to one hour	2.00	4-0	
97260	Manipulation (cervical, thoracic, lumbosacral, sacroiliac, hand, wrist) (separate procedure), performed by physician; one area	3.10	10-0	
97261	Manipulation (cervical, thoracic, lumbosacral, sacroiliac, hand, wrist) (separate procedure), performed by physician; each additional area	NONCOVERED		
97500	Orthotics training (dynamic bracing, splinting), upper extremities; initial 30 minutes, each visit	5.10	9-0	
97501	Orthotics training (dynamic bracing, splinting), upper extremities; each additional 15 minutes	2.50	6-0	
97520	Prosthetic training; initial 30 minutes, each visit	5.10	9-0	
97521	Prosthetic training; each additional 15 minutes	2.50	6-0	
97530	Kinetic activities to increase coordination, strength and/or range of motion, one area (any two extremities or trunk); initial 30 minutes, each visit	5.10	10-0	
97531	Kinetic activities to increase coordination, strength and/or range of motion, one area (any two extremities or trunk); each additional 15 minutes	2.50	6-0	
97540	Activities of daily living (ADL) and diversional activities; initial 30 minutes, each visit	5.10	10-0	
97541	Activities of daily living (ADL) and diversional activities; each additional 15 minutes	2.50	6-0	
97700	Office visit, including one of the following tests or measurements, with report a. b. c. initial 30 minutes, each visit	5.10	10-0	

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
	CPT-4			
	modality (specify)			
97110	Physical medicine treatment to one area, initial 30 minutes, each visit; therapeutic exercises	3.40	8	C
97112	Physical medicine treatment to one area, initial 30 minutes, each visit; neuromuscular reeducation	3.40	8	C
97114	Physical medicine treatment to one area, initial 30 minutes, each visit; functional activities	3.40	8	C
97116	Physical medicine treatment to one area, initial 30 minutes, each visit; gait training	3.40	8	C
97118	Physical medicine treatment to one area, initial 30 minutes, each visit; electrical stimulation (manual)	3.40	8	C
97120	Physical medicine treatment to one area, initial 30 minutes, each visit; iontophoresis	BR		
97122	Physical medicine treatment to one area, initial 30 minutes, each visit; traction, manual	3.40	8	C
97124	Physical medicine treatment to one area, initial 30 minutes, each visit; massage	3.40	8	C
97126	Physical medicine treatment to one area, initial 30 minutes, each visit; contrast baths	3.40	8	C
97128	Physical medicine treatment to one area, initial 30 minutes, each visit; ultrasound	3.40	8	C
97139	Physical medicine treatment to one area, initial 30 minutes, each visit; unlisted procedure (specify)	BR		
97145	Physical medicine treatment to one area, each additional 15 minutes	1.80	4	C
97220	Hubbard tank; initial 30 minutes, each visit	4.00	8	C
97221	Hubbard tank; each additional 15 minutes, up to one hour	2.00	4	C

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
	CPT-4			
	service			
99025	Initial (new patient) visit when asterisk (*) surgical procedure constitutes major service at that visit	5.00	8.0	
99050	Services requested after office hours in addition to basic service	3.00	5.0	
99052	Services requested between 10:00 PM and 8:00 AM in addition to basic service	3.00	5.0	
99054	Services requested on Sundays and holidays in addition to basic service	3.00	5.0	
99056	Services provided at request of patient in a location other than physician's office which are normally provided in the office	NONCOVERED		
99058	Office services provided on an emergency basis	BR		
99062	Emergency care facility services: when the non-hospital-based physician is in the hospital, but is involved in patient care elsewhere and is called to the emergency facility to provide emergency services	3.00	5.0	
99064	Emergency care facility services: when the non-hospital-based physician is called to the emergency facility from outside the hospital to provide emergency services; not during regular office hours	5.30	8.0	
99065	Emergency care facility services: when the non-hospital-based physician is called to the emergency facility from outside the hospital to provide emergency services; during regular office hours	4.00	7.0	
99070	Supplies and materials (except spectacles), provided by the physician over and above those usually included with the office visit or other services rendered (list drugs, trays, supplies, or materials provided)	BR		

CPT-4

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
97701	Office visit, including one of the following tests or measurements, with report a. b. c. each additional 15 minutes	2.50	6-C	
97720	Extremity testing for strength, dexterity, or stamina; initial 30 minutes, each visit	5.10	9-C	
97721	Extremity testing for strength, dexterity, or stamina; each additional 15 minutes	2.50	6-C	
97752	Muscle testing, torque curves during isometric and isokinetic exercise (eg, by use of Cybex machine)	5.10	9-C	
97799	Unlisted physical medicine service or procedure	BR		
99000	Handling and/or conveyance of specimen for transfer from the physician's office to a laboratory	1.30		
99001	Handling and/or conveyance of specimen for transfer from the patient in other than a physician's office to a laboratory (distance may be indicated)	1.70		
99002	Handling, conveyance, and/or any other service in connection with the implementation of an order involving devices eg, designing, fitting, packaging, handling, delivery or mailing) when devices such as orthotics, protectives, prosthetics are fabricated by an outside laboratory or shop but which items have been designed, and are to be fitted and adjusted by the attending physician	3.00		
99013	Telephone calls for consultation or medical management; simple or brief	NONCOVERED		
99014	Telephone calls for consultation or medical management; intermediate	NONCOVERED		
99015	Telephone calls for consultation or medical management; lengthy or complex	NONCOVERED		
99024	Postoperative follow-up visit, included in global	NONCOVERED		

CPT-4 Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
99162	Critical care, initial, including the diagnostic and therapeutic services and direction of care of the critically ill or multiple injured or comatose patient, requiring the prolonged presence of the physician; additional 30 minutes	12.00	20.0	
99170	Gastric intubation, and aspiration or lavage for treatment (eg, for ingested poisons)	18.00	25.0	
99171	Critical care, subsequent follow-up visit; brief examination, evaluation and/or treatment for same illness	5.90	10.0	
99172	Critical care, subsequent follow-up visit; limited examination, evaluation and/or treatment, same or new illness	7.60	12.0	
99173	Critical care, subsequent follow-up visit; intermediate examination, evaluation and/or treatment, same or new illness	10.50	15.0	
99174	Critical care, subsequent follow-up visit; extended re-examination, re-evaluation and/or treatment, same or new illness	15.00	20.0	
99175	Ipecac or similar administration for individual emesis and continued observation until stomach adequately emptied of poison	BR		
99180	Hyperbaric oxygen pressurization; initial	6.00		
99182	Hyperbaric oxygen pressurization; subsequent	4.00		
99185	Hypothermia; regional	BR		
99186	Hypothermia; total body	BR		
99190	Assembly and operation of pump with oxygenator or heat exchanger (with or without ECG and/or pressure monitoring); each hour	10.00		
99191	Assembly and operation of pump with oxygenator or heat exchanger (with or without ECG and/or pressure monitoring); 3/4 hour	8.00		

CPT-4

Proc. Code	Procedure Description	West Virginia Workers' Compensation Fund Unit Value	Follow-up Days	Anesthesia Base Units
99071	Educational supplies, such as books, tapes, and pamphlets, provided by the physician for the patient's education at cost to physician	NONCOVERED		
99075	Medical testimony	BR		
99078	Physician educational services rendered to patients in a group setting (eg, prenatal, obesity, or diabetic instructions)	NONCOVERED		
99080	Special reports as insurance forms, or the review of medical data to clarify a patient's status--more than the information conveyed in the usual medical communications or standard reporting form	NONCOVERED		
99082	Unusual travel (eg, transportation and escort of patient)	BR		
99090	Analysis of information data stored in computers (eg, ECGs, blood pressures, hematologic data)	NONCOVERED		
99100	Anesthesia for patient of extreme age, under one year and over seventy	BR		
99150	Prolonged physician attendance requiring physician detention beyond usual service (eg, operative standby, monitoring ECG, EEG, intrathoracic pressures, intravascular pressures, blood gases during surgery, standby for newborn care following cesarean section); 30 minutes to one hour	BR		
99151	Prolonged physician attendance requiring physician detention beyond usual service (eg, operative standby, monitoring ECG, EEG, intrathoracic pressures, intravascular pressures, blood gases during surgery, standby for newborn care following cesarean section); more than one hour	BR		
99160	Critical care, initial, including the diagnostic and therapeutic services and direction of care of the critically ill or multiple injured or comatose patient, requiring the prolonged presence of the physician; each hour	20.00	30	

THE WEST VIRGINIA OPTOMETRIC ASSOCIATION

July 31, 1987

Commissioner
Worker's Compensation Fund
601 Morris Street
Charleston, West Virginia 25305

Dear Commissioner:

Following are comments relative to rules filed dealing with billing procedures and medical fee schedules.

We oppose any attempt to mandate specific billing based on diagnosis only. Individual cases with the same diagnosis may require significantly different lengths and types of treatment.

Current billing on a per case basis allows individual variation based on the severity and type of injury.

We appreciate the opportunity to make comments relative to these rules and hope that you will give consideration to our objections.

Sincerely,

Joseph L. Trupo, O.D.
S.P.

Joseph L. Trupo, O.D.
President

JLT/scp

• West Virginia 25301

AREA PSYCHIATRIC AND PSYCHOTHERAPY GROUP
APPG
SUITE 701, 401 ELEVENTH ST
HUNTINGTON, W.VA. 25701-2271
(304) 525-9355

July 30, 1987

Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Attention: John F. Leaberry
Commissioner

Reference: Medical Cost Containment
System Manual

Dear Mr. Leaberry:

I am writing to comment on the Medical Cost Containment System Manual which was filed in the State Register as a Proposed Legislative Rule.

If these fees go into effect, my office can no longer afford to provide services to Fund recipients. These fees are grossly unrealistic for outpatient services and for some inpatient services also.

Please take into consideration the aforementioned problems.

Sincerely,

D. H Webb, III, M.D.

MAR:mms

Mitchell

Bill

MARKEY & BOUSTANY, M.D.'S, INC.
JOHN B. MARKEY, M. D.
M. M. BOUSTANY, M. D.
GENERAL MEDICAL PAVILION
415 MORRIS STREET
SUITE 105
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE 343-7557

July 28, 1987

John F. Leaberry
Commissioner
West Virginia
Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Mr. Leaberry:

This is in response to your notification dated June 30, 1987, regarding the establishment of Workers' Compensation Fund medical cost containment system. I am responding according to your established comment. The problem that many physicians have with Workers' Compensation instituting such a program is the fact that such a small percentage of the total expenditures of the Workers' Compensation Fund are for physician's services. It would appear to me that decreasing a rather significantly small percentage of the compensation dollar even further would not be in the best interest of the injured employee. Several years ago the compensation commissioner found that it was not in the best interest of the injured employee to attempt to do this when the hospitals quit admitting compensation patients. Physicians in large groups, especially in some of the more vital specialities such as orthopedics and neurosurgery, were not seeing these patients because of some of the arbitrary rules and regulations established by the then compensation commissioner, and that unfortunately for the injured employee, that many times they were denied necessary care. This is certainly not the goal of physicians to deny care to anyone; however, there must be communication in exchange in views and ideas between the two groups.

According to my understanding, our state association headquarters was called once early in the year to set up an appointment to sit down and discuss some of the problems, especially this new program. At that time, the executive director of our association was not able to keep the appointment, and he called and set up another appointment only to

have your people cancel the second appointment. There was no further discourse between the two groups in the interim until this was published and distributed.

My concern is for the welfare of the injured employee. I think that arbitrary decisions without adequate discussion between the concerned groups, i.e., hospitals, physicians and employers through the compensation commissioner does not serve the best interest of those covered by the fund. I feel certain that if a very objective evaluation of the entire expenditures of the compensation fund was undertaken that there are many areas in which savings could be achieved that involve a much higher percentage of the compensation dollar.

I would suggest on behalf of the medical physician community that the implementation of this program be delayed until such time as meaningful discussions can be held between the concerned parties.

Sincerely,

John B. Markey, M. D.

JBM/lnb

Bluefield Orthopedics, P.C.

Yogesh Chand, M.D.

P. O. Box 590
1616 West Cumberland Road
Bluefield, VA 24605
304-327-2455

Hand Surgery Orthopedic Surgery Sports Medicine

July 31, 1987

John F. Leaberry, Commissioner
West Virginia Workers' Compensation
P. O. Box 3151
Charleston, WV 25332

Dear Commissioner Leaberry:

Re: Comment on Proposed Rule for Medical Cost Containment

I understand your need to contain your costs for the Workers' Compensation Fund. However, there is some uniqueness about the medical care that is being given to the patients as well as the requirements of the Workers' Compensation Fund in terms of correspondence as well as filling out of forms as well as other requirements such as authorization and the high possibility of being subpoenaed to Workers' Compensation Fund hearings. With this respect, the Workers' Compensation Fund patient is quite different from the other health insurance type of patients.

I have reviewed your fee schedule and it appears to be fair except that there has been no allowance made for the correspondence that is required on almost all of the patients. For that reason, I would request that the Workers' Compensation Fund either have a separate category for reimbursements for the correspondence aspect of the care or allow the fee schedules to have incorporated in them, an increased amount that would cover the overhead as well as the time spent in the correspondence.

There is also the aspect of supplies for the patients. Generally Workers' Compensation Fund patients are younger. They require larger casts as well as larger assistive devices. In these days of inflation, there is continuing increase in the supply cost. I would request that the Workers' Compensation Fund would reimburse the physician at least the 100% of the costs of these supplies.

Sincerely,

Yogesh Chand, M. D.

YC/cls

WWSIA
WEST VIRGINIA SELF-INSURERS ASSOCIATION
P.O. BOX 1573 CHARLESTON, WEST VIRGINIA 25326

July 31, 1987

HAND DELIVERED

Honorable Nelson B. Robinson, Jr.
Commissioner
Workers' Compensation Fund
Post Office Box 3151
Charleston, West Virginia 25332

Re: Medical Cost Containment Program

Dear Commissioner Robinson:

Pursuant to your notice of June 30, 1987, the West Virginia Self-Insurers Association commends the Workers' Compensation Fund for its development of the Fund's Medical Cost Containment System. The Association has not had an opportunity to review each of the separate billing instructions filed as the Medical Cost Containment Manual, but we support the concept as previously identified by the Workers' Compensation Fund, in regard both to the reasonableness of fees and the utilization of services. The Association urges the Fund to implement the Medical Cost Containment System as soon it may legally be done.

Very truly yours,

Henry C. Bowen

Henry C. Bowen
Executive Secretary

HCB:ag

AMERICAN ELECTRIC POWER Service Corporation

AEP FUEL SUPPLY

P. O. Box 700
Lancaster, OH 43130
(614) 687-1440

July 30, 1987

Nelson B. Robinson, Jr.
Commissioner
W. Va. Workers' Compensation Fund
P. O. Box 3151
Charleston, WV 25332

Re: Medical Cost Containment
and Utilization Program for:

Southern Ohio Coal Co.	Risk No. 54-148
Windsor Power House Coal Co.	Risk No. 54-140
Cedar Coal Co.	Risk No. 54-160
Central Appalachian Coal Co.	Risk No. 54-141
Southern Appalachian Coal Co.	Risk No. 54-146

Dear Commissioner Robinson:

I am writing on behalf of the above referenced coal companies to express our support and endorsement for the implementation of a medical cost containment and utilization program by the West Virginia Workers' Compensation Fund.

The escalating medical costs are out of control and increased costs far exceed the national inflation rate. Medical expenses and treatment should be based upon reasonable and customary standards. The cost of a pair of hearing aids, for example, varies from $900 to $2,000 in an allowed hearing loss claim. Guidelines must be established for reasonable charges. The economic growth of West Virginia is hampered by the high cost of workers' compensation liability.

We support your efforts for a speedy implementation of the Medical Cost Containment and Utilization Program.

Very truly yours,

Steven Tedrick

L. Steven Tedrick, Manager
Workers' Compensation

pm
cc: L. G. Sogan
C. R. Kellam
D. M. Scartezina
R. R. Wilson
G. M. Grubb
B. G. Lynn
W. E. Olson

P. KENT THRUSH, M.D.
Orthopedic Surgery
SUITE 101-1708 LOCUST AVENUE
FAIRMONT WEST VIRGINIA 26554
Telephone 366-2151

July 30, 1987

Workmen's Compensation
601 Morris St.
Charleston, WV 25301
Attn: John Leaberry

Re: Cost Containment

Dear Mr. Leaberry,

Since the comment period for Workmen's Compensation legislation is soon ending, I thought I would make a few brief comments. It is perfectly understandable that the Workmen's Compensation Fund needs to hold down costs, but from my observation of the system, it wouldseem to me that the major financial drain on this system is the fact that so many injured workers are on the Workmen's Compensation payroll for alot longer than they need to be. This is not entirely the patients fault, but it does seem to be built into the system. I see patients in my office day after day that have been on Workmen's Compensation longer than they need to be and have collected thousands and thousands of dollars as a result of that. It would seem to me that the whole system needs to be re-organized so that there is more careful scrutiny of who is on compensation and for how long and for what reasons. I think there should be more independent evaluations and may be change it so they are evaluated sooner than 120 days. I think the evaluation physician should have more authorization to declare that a patient has reached maximum improvement and not just leave that up to the treating physician. It is often very difficult for the treating physician to tell a patient that he has reached maximum improvement and that he needs to try to go back to work or that he needs to get off the permanent partial disability rolls when that physician may be treating some other members of that family or has some other ties with the patient. If an independent examiner was seeing these patients more frequently, he could made an independent judgement as to whether maximum improvement has been reached and get the individual off the Workmen's Compensation rolls of temporary total disability. This fact that the patients are on temporary total disability longer than they need to be is costing compensation enormous amounts of money. It also seems to me that there needs to be some re-organization of the way in which permanent partial disability ratings are awarded. It would seem to me that if there was some type of panel set up to review cases which included about 3 orthopedic physicians, a mutual agreement could be made about what permanent partial disability was fair and a lot of these appeals and denials and hearings could be

avoided. It would certainly seem to me that trying to set up some type of fee schedule to encompass all the different things that are done in orthopedics would be not only very difficult but unfair. I would guess that the expenditure for physicians fees is only a very small percentage of the Workmens Compensation budget. There is so much money being wasted in other ways, the physician fees seems to be minor when one considers the thousands of dollars that are paid out on temporary total disability and then the thousands of dollars that are paid out for permanent partial disability ratings. These typically run into the thousands of dollars while there are very few orthopedic procedures that are even close to this dollar figure. The pure complexity of orthopedics and the total number of different procedures makes it very difficult to establish a careful and equitable fee schedule. We have tried to do that in our own office and have over 300 different procedures or variations of different procedures. For example, a simple fracture of the radius can be viewed and billed in at least 8 different ways, depending on the type of fracture, the age of the patient, the necessity of general versus local anesthesia, the number of post operative visits etc. Just for one seemingly simple fracture, the variations are enormous. That is why trying to develop a fee schedule for orthopedics in particular is extremely difficult and fraught with unfairness in my opinion. It would also seem to me that the Workmen's Compensation Fund was throwing away a lot of money in the payment of non MD physicians. I personally have nothing against chiropractic treatment but I see people in my office who have been under chiropractic treatment for many months with not even a simple 120 day evaluation and compensation money seems to continue to pour into the treatments and also to the patient who is on temporary total disability. I think that if chiropractic physicians are to be in the Workmen's Compensation system as they are now then they need to be reviewed as carefully as MD physicians need to be reviewed. Again, I think that there should be some independent examination of who is on compensation and why and what the treatment consists of, probably before this 120 day period and the examining physician should have the power to terminate Workmen's Compensation if he feels that the patient does not need to be on compensation and should be given a permenent partial disability rating, which in many cases should be zero. These are just some of my thoughts on the workmen's compensation system which I feel needs careful scrutiny and probably some major re-structure.

Sincerely,

P.Kent Thrush, MD

Bill McCall

P. O. Box 4106
Charleston, West Virginia 25364
July 31, 1987

Honorable Nelson Robinson, Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

Re: Written Comments of the West Virginia State Medical Association on Proposed Legislative Rule Titled "Medical Fee Schedule" filed June 29, 1987;

Dear Sir:

On behalf of its members, the West Virginia State Medical Association hereby files written comments relating to the Medical Fee Schedule filed in the State Register on June 29, 1987 by the Workers' Compensation Fund pursuant to the authority vested in the Commissioner of the Workers' Compensation Fund under Chapter 23, Article 4, Section 3 of the West Virginia Code.

The Code Section cited above provides in part as follows:

> "The commissioner shall establish and alter from time to time as he may determine to be appropriate a schedule of the maximum reasonable amounts to be paid to physicians, surgeons, hospitals or other persons, firms or corporations for the rendering of treatment to injured employees under this chapter. ...
>
> "The commissioner shall disburse and pay from the fund for such personal injuries to employees as may be entitled thereto hereunder as follows:

(a) Such sums for medicines, medical, surgical, dental and hospital treatment, crutches, artificial limbs and such other and additional approved mechanical appliances and devices, as may be reasonably required." (Emphasis supplied)

The Commissioner of the Workers' Compensation Fund is required by the mandatory statutory language of West Virginia Code, Chapter 23, Article 4, Section 3 to pay for medical services rendered in the treatment of a compensable injury so long as the physician's fee does not exceed a maximum reasonable fee for the service. In establishing a fee schedule, the commissioner has no right to arbitrarily and capriciously set fees but rather must compensate phycisians for their services if the fees are reasonable.

The proposed medical fee schedule is an attempt by the Workers' Compensation Fund to meet its statutory responsibility while containing the medical costs of the Fund. The Fund suggests an annual savings of approximately 8.7 million dollars which represents approximately 10% of the total amount expended by the Fund for medical services. Based on FY 1986 figures, this sum represents about four percent (4%) of the total benefit payout.

The proposed medical cost containment system embodied in the proposed legislative regulation titled "Medical Fee Schedule" filed with the Secretary of State on June 29, 1987 exceeds the statutory grant of authority to the Workers' Compensation Fund in numerous respects and should be amended to comform with the law prior to its submission to the legislature. The comments contained herein are not intended to be inclusive of all objections individual West Virginia physicians may have to the proposed fee schedule. The comments, however, reflect many of the serious objections West Virginia physicians have expressed with regard to the legality and desirability of the proposed regulation.

I. MEDICAL GUIDELINES

1. The statute grants the Commissioner no authority to implement a precertification program. The requirement that a physician request precertification for hospitalization or for certain other services determined by the physician to be required to treat the patient is an impediment to the prompt receipt of medical care and substantially increases the paperwork burden on the treating physicians.

2. The Commissioner's attempt to prohibit the dispensing of legend drugs to patients by physicians has no legal

foundation. Licensed West Virginia physicians are lawfully entitled to dispense drugs as a part of their treatment of the patient so long as they do not retail drugs. Ambulatory care centers frequently prescribe drugs to patients thereby permitting "one-stop" healthcare for minor injuries and illnesses. This service is a convenience to the patient and the cost of the prescription is usually competitive with competing pharmacies. The Commissioner has no authority to restrict a physician in this manner. In addition, the proposed rule is anti-competitive and would not be cost effective for the Fund.

3. The restrictions against payment for medically necessary telephone consultations, prescription refills, vitamins, diet pills for dietary supplements are also without statutory foundation. The use of computer diagnosis techniques and telephonic consultations with distant experts is increasingly common in the field of medicine. The consultations are a great aid to general practitioners and should not be discouraged as a matter of public policy even if the Commissioner had the authority to refuse to pay for such services, which he does not.

4. The restrictions and regulations against treatment by a second physician infringe upon the ability of an injured employee

to obtain treatment by a physician of his choice. So long as the treatment is not duplicative, the Fund is legally required to pay for the service if it is medically necessary.

5. The requirement that services always be related to a primary diagnosis code ignores the fact that specialists or a second physician will frequently reach a differing diagnosis. When an injured employee has sought out treatment by a specialist or a second physician, the Fund has no statutory authority to refuse to pay the second physician until the physician obtains the primary physician's treatment code. If the second diagnosis and treatment is medically necessary for the continued treatment of a compensable injury, the fee for services must be paid under the mandatory language of the statute.

6. The regulation unlawfully restricts access to rehabilitative services by requiring that therapy be supervised by a licensed physician or physical therapist. The field of rehabilitation is growing dramatically to include professional recreational therapists, exercise therapists and others. The growth of these rehabilitative services must be provided for in any compensation schedule. The Fund cannot arbitrarily ignore the emergence of new specialties in the field of rehabilitation medicine.

7. In limiting the reimbursement of physical therapy through the exclusion of the use of health clubs, the Fund is shutting the door to therapy programs that may be the most cost effective method of maximizing recovery for an injured employee.

8. The regulation restricting billing for not more than two treatment modalities on the same day lacks any statutory basis and it is arbitrary and capricious.

9. The proposed regulation arbitrarily and capriciously restricts payment for multiple surgical procedures based upon an arbitrary formula. Surgeries involving complex multiple procedures cannot be arbitrarily classified in a billing system.

10. The proposed regulation unlawfully prohibits the use of experimental procedures and thereby deprives those few workers' compensation recipients who would be subjected to experimental procedures of the opportunity for the maximum possible recovery from their injury.

11. One physician has reported that the new billing system required for physicians as part of the regulation cannot be accommodated on existing computer billing systems in physicians' offices. This matter should be investigated to insure that the

computer equipment commonly being utilized by physicians for billing purposes can be used to process billing forms for submission to the Fund.

II. FEE SCHEDULE

The proposed fee schedule does not reflect the basis upon which it is calculated. The West Virginia State Medical Association is unaware of any fee survey conducted by the Fund among West Virginia physicians to establish a data base upon which calculations could be made to formulate a "maximum reasonable fee schedule". The West Virginia State Medical Association requested a small group of physicians from various specialties to review the CPT codes to identify codes commonly utilized in treating workers' compensation patients. This survey revealed a wide disparity of responses in which some speciality groups felt they received fair fee treatment with the CPT codes and others felt their usual fees had been substantially undercut. Physicians from two separate orthopedic groups in the Charleston area separately reported that the proposed "maximum reasonable fee" for the procedures they normally perform on workers' compensation patients undercut their existing fees by 40% to 50%. The orthopedists are commonly recognized to be among the finest

in their speciality practicing in West Virginia. It is the belief of the West Virginia State Medical Association that the bulk of the fee savings the Commission believes will be generated by the cost containment system will be born at the expense of a few surgical specialties, most particularly the speciality of orthopedic surgery. Other specialities involved in the treatment of trauma also seem to suffer, including neurosurgery and, to a lesser extent, radiology. Where the fee schedule proposed by the commissioner is grossly inadequate, competent physicians with heavy case loads will be less likely to accept workers' compensation fund patients.

It is the position of the West Virginia State Medical Association that reasonable fees ought to be defined by extensive research into customary billing practices in West Virginia and that a number of factors should be included in determining the reasonableness of individual physicians' fees including:

1. The experience and competence of the physician;

2. The geographic location of the physcian in order to reflect the actual cost of doing business for the physician. Obviously, a physician practicing in a major population center such as Wheeling or Charleston will have higher overhead factors for rents and staff salaries and wages.

3. Physicians who perform complex and high risk procedures are required to carry more expensive liability insurance and are able to serve fewer patients. For this reason, it is totally unrealistic to expect an orthopedic surgeon to charge the same amount for a procedure as a general practitioner. The attempt to impose uniform fees for services rendered by physicians discourages specialization and expertise. The Fund should be encouraging the treatment of injured employees by physicians with the highest possible degree of medical competence in order to maximize the opportunity for recovery and the return to the work force of an injured employee. To do otherwise is the most dangerous and expensive sort of false economy.

The fee schedule provides no mechanism to index fees to permit increases for inflationary cost factors. The practical effect of the absence of such a mechanism means that the fees established pursuant to the regulation diminish with time. What may be reasonable today will automatically be less than reasonable with the passage of time.

Many individual members of the West Virginia State Medical Association have expressed their views directly to the Commission in the hope that the Commission will give serious consideration

to working with the State Medical Association and its member physicians to resolve these difficulties prior to submission of these rules to the legislative rule making review committee.

Strengthened claims review procedures involving physicians and other health professionals is a far more desirable method of attacking any abuses that exist in the fees currently charged for medical services rendered to an eligible employee. The medical profession and the health care industry cannot and should not serve as the sole vehicle for cost reduction in the Fund. Employees through their unions and employers through their business associations must be involved in the sacrifices necessary to control expenditures in the Fund. If the Workers' Compensation Commission refuses to pay for quality medical care it will ultimately condemn injured employees to a second class medical care system.

Respectfully Submitted,
WEST VIRGINIA STATE MEDICAL ASSOCIATION

By: Merwyn Scholten, Executive Director

Don R. Sensabaugh, Jr.
Counsel for West Virginia State Medical Association

BLUEFIELD HEMATOLOGY-ONCOLOGY ASSOCIATES
504-A CHERRY STREET
BLUEFIELD, W.Va 24701
Telephone (304) 325-8104

Mary Louise Kistner, M.D.
Larry L. Stone, Ph.D.

July 31, 1987

Mr. John F. Leaberry
Workers' Compensation Fund
601 MOrris Street
Charleston, WV 25301

Dear Mr. Leaberry:

West Virginia recently ranked 45th out of the continental 48 states in site desirability for relocating industry.

And now we've got another employer tax. And you are seriously asking for comment??

What else need be said? With this history, what chance anyone cares? Or listens!

As soon as possible we'll be joining that majority of professionals who have moved across the state line to Va.

Yours,

Larry L. Stone, Ph.D.

JAN A. HARBOUR, DC
3551 Teays Valley Road
Hurricane, West Virginia 25526

July 30, 1987

Commissioner
West Virginia Workers' Compensation
Fund, Inc.
601 Morris Street
Charleston, West Virginia 25301

Dear Commissioner:

Attached hereto are comments on the proposed legislative rule titled "Medical Fee Schedule" which are submitted on behalf of the West Virginia Chiropractic Society, Inc.

We appreciate the opportunity to comment on the proposed rule and will be happy to respond to inquiries or to further explain our comments upon request.

Sincerely,

Jan A. Harbour, DC
Immediate Past President
West Virginia Chiropractic
Society, Inc.

JAH/dh

COMMENTS OF THE WEST VIRGINIA CHIROPRACTIC SOCIETY, INC., RELATING TO A PROPOSED LEGISLATIVE RULE PROMULGATED BY THE WEST VIRGINIA WORKER'S COMPENSATION FUND RELATING TO

A PROPOSED MEDICAL FEE SCHEDULE

Introduction

These comments are offered pursuant to a notice given by John F. Leaberry, Commissioner, West Virginia Worker's Compensation Fund, dated June 30, 1987, relating to a proposed legislative rule of the Worker's Compensation Fund establishing a medical fee schedule. The comment period on the proposed rule, began on the date of the notice, and extended through July 31, 1987, at 5:00 p.m. These written comments are submitted by and on behalf of the West Virginia Chiropractic Society, Inc. (the "Society") by Dr. Jan A. Harbour, its immediate past president.

The proposed rule would promulgate as a legislative rule the Medical Cost Containment System Manual ("Manual") proposed by the West Virginia Worker's Compensation Fund (the "Fund"). (In these comments the terms Commissioner and Fund are used sometimes interchangably. Technically, the Worker's Compensation Commissioner may be the person promulgating the proposed rule.) The Manual, as received by the Society, purports to establish "billing guidelines for use by the following medical care providers: Physicians, Psychologists, Audiologists, Physical Therapists, and any Independent Laboratories." Being designated

"physicians" under state law, chiropractic professionals are vitally interested in the proposed rule and in the legality, completeness, thoroughness, and reasonableness, of the proposed manual.

Summary of Position

It is the position of the West Virginia Chiropractic Society, Inc. that certain aspects of the proposed manual should be deleted, supplemented, altered and amended prior to promulgation as a final rule. The basis for this position is that certain portions of the proposed Manual contain provisions which:

1. Exceed the scope of the statutory authority of the Fund;

2. Are not in conformity with the legislative intent of the statute authorizing promulgation of the Manual;

3. Conflict with other provisions of the West Virginia Code; and

4. Are unreasonable, as they affect the persons impacted by the manual.

Specifically, the Society contends that the regulations should be amended in the following respects:

1. The distinction between types of services offered by medical physicians and other practitioners should be eliminated throughout the manual.

2. The Manual has the effect of eliminating payment for certain treatments now offered by professionals, which treatments are otherwise authorized pursuant to State law. In doing so, the Manual attempts to eliminate utilization of these types of services notwithstanding their clear authorization under the Code. The Manual should be amended so that it does not interfere with the physician-patient relationship.

3. The extensive use of the "By Report (BR)" designation in the Manual inhibits proper and appropriate immediate treatment of illnesses and conditions requiring treatment; the manual does not set forth the amounts which will be paid for such services as are authorized by a report. These aspects of the Manual should be changed.

4. The Commissioner has failed to make, in connection with promulgation of the proposed Manual as a rule, required findings and determinations. In the absence of evidence and research relating to the subject matter of the proposed Manual, the promulgation of certain aspects of the proposed Manual is inappropriate. Determinations should be included in the Manual or otherwise promulgated as part of the rule-making process.

A general discussion supporting the above conclusions is set forth below.

Statutory Authority to Promulgate Rule

The Manual establishes billing guidelines for use by certain medical care providers. Medical services are to be billed using the procedural codes contained within the Manual. Adjacent to the codes other relevant billing information is listed. To calculate the maximum fee allowable for a procedure, practitioners are asked to multiply a "unit value" listed by the code. The "conversion factor" depends upon whether the practitioner is engaged in the practice of medicine (which includes chiropractic professionals), surgery, anesthesiology, radiology or laboratory services. Medical providers are asked to bill their usual and customary charge for a service provided it does not exceed the maximum allowable rate established by the Manual. Practitioners authorized under law to practice their profession are permitted to be paid by the Fund. However, practitioners may only be paid for rendering services that their license to practice permits them to perform. See Manual, pp. I-i to I-iii.

The establishment of a medical fee schedule is, in general, not objected to by the Society.

West Virginia Code § 23-4-3, reads, in part, as follows:

> The Commissioner shall establish, and alter from time to time as he may determine to be appropriate a schedule of the maximum reasonable amounts to be paid to physicians, surgeons, hospitals or other persons, firms or corporations for the rendering of treatment to injured employees under this chapter.

The clear language of the statute would seem to permit the promulgation of "a schedule of the maximum reasonable amounts to be paid to . . ." the various professionals supplying services to be paid for by the Fund.

The Society has vigorously asserted in prior proceedings that the promulgation of such a fee schedule must be done in accordance with the State's Administrative Procedures Act as a legislative rule. See W.Va. Code § 29A-3-1 et seq. However, in promulgating the proposed Manual as a rule, the Fund may neither (1) exceed its statutory authority, nor (2) act in a manner contrary to the State's Administrative Procedures Act.

We respectfully submit that in promulgating the proposed Manual, the Fund has done both.

Limitations on Utilization

First, in creating the Manual, the Commissioner has not only created a schedule of maximum reasonable amounts to be paid for specific services, but also imposed limits upon utilization of those services. For example, the Manual contains a section titled "Limitations" (see p. I-v) which reads as follows:

> Limitations
>
> No more than two modalities, physical medicine procedures, or combinations of modalities and procedures are allowed on the same day without prior authorization. In addition, no more than one hour of physical therapy is allowed on the same day without prior authorization.
>
> One manipulation/adjustment fee is allowed per visit regardless of the number of areas treated. Code 97260 should be used for this

> service. An office visit, 90030, is allowed with manipulations or adjustments. DO NOT use any other office visit codes in the range 90000 - 90080. Office visit charges are not allowed when rendered in conjunction with modalities or procedures other than manipulations/adjustments.
>
> The application of heat prior to a recognized physician service, such as manipulation or adjustment, is an integral part of the service. Reimbursement for heat treatment is included in the reimbursement for the manipulation or adjustment.

It would follow from these stated limitations, that:

No more than two modalities, physical medical procedures, or combination of modalities and procedures, are allowed on the same day, without prior authorization.

No more than one hour of physical therapy is allowed on the same day, without prior authorization.

Only one manipulation or adjustment fee is allowed per visit, regardless of the numbers of areas treated.

Only a minimal service established patient office treatment charge (Proc. Code 90030) may be charged in connection with any manipulation, even if the service rendered is better described or more accurately described by a different code number.

Office visit charges are not allowed when rendered in conjunction with modalities or procedures other than manipulations or adjustments.

Heat treatments are severely limited and reimbursement for heat treatment is limited.

Thus, it is clear from the content of the proposed Manual, that the Fund is attempting to regulate utilization of physician services, not just establish a fee schedule. In doing so, the Fund has exceeded the grant of authority by the legislature.

Certainly, the legislature did not intend for the physician-patient relationship to be so restrained. Other provisions of the Code clearly authorize the practice of chiropractic medicine (See § 30-16-1 et seq.). It is clear that the legislature, in those Code sections has authorized the chiropractic physician to make judgments about what treatments are necessary and the manner in which these treatments are to be rendered. For the Fund to attempt to limit the discretion of a chiropractic physician by limiting utilization of specific services in connection with treatment exceeds statutory authority and is contrary to the statutes authorizing the practice of medicine by a chiropractic physician.

The goal of the legislature as embodied in W.Va. Code § 23-4-3 is admirable, that is, to establish reasonable maximum lawful amounts that the Fund will pay physicians and hospitals upon rendering medical services. Such schedules are increasingly common. However, the current law does not attempt to limit the discretion of physicians and others as to when certain treatments are needed, but rather only to allow limitations on the amounts to be paid to practitioners in consideration for those services.

By attempting to prohibit the rendering of certain services, and by attempting to prohibit payment for those services, the Fund has exceeded its statutory authority.

Similarly, it may be fairly stated that the limitations set forth in the Manual and quoted above are aimed primarily at those engaged in offering physical medicine procedures, including manipulations and heat treatments. In doing so, the Fund has attempted to impose limitations on utilization of those practicing physical medicine without imposing like limitations on those practicing in other fields. In doing so, the Fund has established an arbitrary and capricious classification.

In one prior notice, designated a "Policy Statement," the Fund asserted that:

> "We have found it necessary to establish a fee and utilization schedule for chiropractic care. Although the charges for most chiropractic physicians have been quite reasonable, a few bills have seemed excessive with regard to utilization and fees."

The use of the "Policy Statement" to establish a cost control system was struck down by the courts, prompting promulgation of this rule. The notice which was given, and the limitations contained in the proposed Manual, make it clear that the Fund is attempting to do indirectly what the courts would not permit it to do directly - limit the utilization of chiropractic physician services without similarly limiting utilization by other health care providers.

Comments Relating to the
Administrative Procedures Act

West Virginia Code § 29A-3-5 governs the manner in which an agency may propose a legislative rule. In part it reads as follows:

> The notice shall fix a date, time and place for the taking of evidence for any findings and determinations which are a condition precedent to promulgation of the proposed rule . . . . If no findings and determinations are required . . . that notice shall fix a date, time and place for receipt of public comment on such proposed rule.

The notice given in connection with the promulgation of the Manual as a rule solicited only written comments, and did not provide for the taking of evidence for any findings or determinations "which are a condition precedent to promulgation of the proposed rule . . . ." See also, W.Va. Code § 29A-3-6 (providing that "incident to fixing a date for public comment on a proposed rule, the agency shall promulgate the findings and determinations required as a condition precedent thereto . . . .").

It is apparent that the Fund is taking the position, in connection with promulgation of the Manual, that no finding or determination is required in connection with the promulgation thereof.

Yet, W.Va. Code § 23-4-3, cited above, indicates that the Commissioner may establish a maximum reasonable amount to be paid to physicians and others as he may from time to time "determine to be appropriate." See W.Va. Code § 23-4-3.

Obviously, the legislature in authorizing the Commissioner to establish maximum fee schedules contemplated the entry into the record of some evidence of the need therefor and the reasoning behind the setting of maximum rates. In that regard, the Fund has to date only stated in a policy statement that it has found it "necessary to establish a fee and utilization schedule for chiropractic care," and made other similar generalizations.

Because of the absence of the required determinations, the public is unable to test the Fund's thinking as to whether the charges listed as maximum lawful rates are appropriate and whether the proposed utilization limitations are appropriate. Because the Fund has failed to set forth appropriate findings, the proposed Manual has not been promulgated in accordance with the West Virginia Administrative Procedures Act.

In the case of Citizens Bank, etc. v. West Virginia Board of Banking and Financial Institutions, 233 S.E.2d 719 (W.Va. 1977), the question was whether an agency required to make findings in an order could summarily recite statutory language as a substitute for the required findings. In considering the contested case portion of the West Virginia Administrative

Procedures Act (W.Va. Code § 29A-5-1 et seq.), the court held that the statute required a contested case order to be accompanied by findings. The court stated:

> "[T]he law contemplates a reasoned, articulated decision which sets forth the underlying evidentiary facts which lead the agency to its conclusion, along with an explanation of the methodology by which any complex, scientific, statistical or economic evidence was evaluated. In this regard, if the conclusion is predicated upon a change of the agency policy from former practice, there should be an explanation of the reasons for such change."

In writing this opinion, the court contemplated that the agency would, in writing its order, set forth basic value judgments as to how the agency interprets what the legislature has sought to achieve, the random facts which it finds helpful in determining whether a proposed action is appropriate, the integrating theory by which it sorts through those facts, and its ultimate conclusion.

Similarly, in connection with legislative rules, the legislature has indicated that when an agency is required to make determinations in connection with the establishment of a rule, the underlying facts should be shared with those who will be affected by the rule to be promulgated. This has not been done in the instant case. The Manual contains only a summary of the maximum charges that will be allowed and not the reasoning or underlying facts giving rise to those limits.

It is the Society's position that in connection with the promulgation of the Manual, the Commissioner must make certain determinations. See, W.Va. Code § 29A-3-5 and W.Va. Code § 23-4-3. This being the case, the Manual has been inappropriately promulgated. In the absence of factual support for the Manual's prescriptions, the proposed rule may impose unreasonable limitations and be arbitrary and capricious. For example, certain items are "not covered" by the Manual and therefore reimbursement cannot be made therefor. Examples include Plethysmography (Proc. Code 93720) and Temperature Grade Studies (Proc. Code 93740). It is the position of the Society that a patient's condition should dictate what services are necessary and that in the absence of evidence that the elimination of these services is required to protect the health and safety of those administered to by the Fund, their elimination is unreasonable, arbitrary and capricious.

Similarly, any procedure requiring prior approval can be subject to extensive delays, thereby inhibiting the physician's judgment and ability to properly treat his patient.

Finally, the "By Report" prior approval requirement found throughout the Manual does not indicate how charges will be made for the services once they are rendered with prior permission. This leaves open the possibility that such charges will not be regulated in a manner which will ensure equal payment; yet the whole purpose of the Manual is to provide for maximum lawful payments by the Fund for the rendering of required services.

Comments Concerning Special Treatment for Chiropractic Physician Services

The Manual requires those providing services to designate, using a TOS (Type of Service) code the type of physician rendering services. In this regard, chiropractic physicians are designated TOS-5 and medical physicians are designated TOS-3. The use of the limitations directed primarily at chiropractic physicians listed above, the extensive limitations on utilization of chiropractic services described above, and the failure to cover certain items primarily rendered by chiropractic professionals, indicates to the Society that the thrust of the proposed rule is to single out, quite unreasonably, the chiropractic physician and limit the ability of the profession to practice, notwithstanding the clear statutory authority of the practitioners so to do. In doing so, the Fund has exceeded the scope of its statutory authority, has violated legislative intent, has put itself in conflict with other provisions of the West Virginia Code, and promulgated a rule which will ultimately be found to be unreasonable.

If the Fund believes that there are abuses among chiropractic professionals, it should document those abuses, take steps to single out those professionals and prohibit payments which are excessive to those individuals.

The approach taken in the Manual is overbroad. Without identifying particular abuses, it attempts to limit the manner in which chiropractic professionals and other medical professionals

can practice their profession. The better approach would be to make factual determinations which can be tested in the process of promulgating proposed rules, and, in addition, seek statutory authority to limit utilization. Only the legislature should have the authority to take such an important step as limiting the right of a physician to decide what treatment is proper for his patients.

Jan A. Harbour
Immediate Past President

THE WEST VIRGINIA CHIROPRACTIC SOCIETY, INC.

GENERAL ANESTHESIA SERVICES, INC

P.O. BOX 566
CHARLESTON, WV 25322

July 31, 1987

Workers' Compensation Fund
Attn: John F. Leaberry
601 Morris Street
Charleston, WV 25301

Dear Mr. Leaberry:

We, General Anesthesia Services, Inc., represent a group of eighteen (18) anesthesiologists from four (4) hospitals and two (2) Clinics within the Kanawha Valley.

The follwing are comments concerning the Workers' Compensation Fund Medical Cost Containment System:

1. What Relative Value Guide was used for anesthesia base units?

   Per Steve Cavender, they reviewed RVG's for several states- CA, WA, NC, FL. They tried to keep within the prevailing charge for this area. However, I still do not know how the units were set up.

2. Per billing instructions- Workers' Compensation will not make additional payment for Physical Status. Will Compensation pay for Physical Status if a supporting diagnosis is indicated on claim form?

3. Why the difference in anesthesia base units? (Listed below are a few examples):

   1. Code 22720- Comp. Units 7 /G.A.S. Units 13
   2. Code 22800- Comp. Units 8 /G.A.S. Units 13
   3. Code 22600- Comp. Units 8 /G.A.S. Units 10
   4. Code 25446- Comp. Units 3 /G.A.S. Units 7

If there are any questions or comments, please feel free to contact me at 925-4086. Thank you for your consideration in this matter.

Sincerely,

Chet R. Marshall
Executive Vice-President

HENRY T. BROBST, M. D
YOUNG S. KANG, M. D.
2037 CRYSTAL SPRING AVENUE, S. W.
ROANOKE, VIRGINIA 24014

PLASTIC AND RECONSTRUCTIVE SURGERY

345-0456

July 27, 1987

Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Attention: Mr. John F. Leaberry
Commissioner

Re: Rule Title: Medical Fee Schedule

Dear Mr. Leaberry:

Thank you very much for your letter dated June 30, 1987, in regard to "Rule Title: Medical Fee Schedule", and allowing us to comment. We have enjoyed "Fee for Service" which enabled us to offer the patient necessary care, which they deserve. No one has abused this system in past to my knowledge. I fear that Medical Fee Schedule on Workers' Compensation will bring quality of care down below the level of the care they deserve. An arbitration committee which consists of physicians in the field of specialty, who may be able to offer an input on the cases of "unusually high expense", may be helpful in the solution of such matter.

I appreciate the opportunity for the comment.

Sincerely yours,

Young S. Kang, M.D.

YSK:jb

RES. PHONE 842-6622

OFFICE 842-6801

Bridgeport Chiropractic Center, P.C.

DR W R McGRAY D.C

ROUTE 3, BOX 28

BRIDGEPORT WEST VIRGINIA 26330

July 29, 1987

Workers' Compensation Fund
601 Morris Street
Charleston, WV 25301

Attn: John F. Leaberry
Commissioner

NOTE: Attached
This letter is my comment stated
August 19, 1986.

BRIDGEPORT CHIROPRACTIC CENTER

Dr. W. R. McGray

jn
Encl.

RES PHONE 842-8822

Bridgeport Chiropractic Center, P.C.
DR W R McGRAY D C
ROUTE 3 BOX 26
BRIDGEPORT WEST VIRGINIA 26330

August 19, 1986

Mary Martha Merrit, Commissioner
Workmen's Compensation Fund
601 Morris Street
Charleston, WV 25301

Dear Ms. Merrit;

This letter is written expressing my concern with your current procedures that effect my office.

I am here by notifing your office that I am formally protesting your current procedures that attempt to dictate my practise of chiropractic and restrict what I am authorized and trained to do under West Virginia laws and regulations. As you know we have yet to settle the legality of your actions in this matter which I feel this a detriment to my patients and their good health.

I will comply with your procedures and fee structures but be it known to your office that I protest this and expect full compensation once this matter is settled.

Sincerely,

Dr. W. R. McCray

WRM/ph

McDonough Caperton Employee Benefits

Bill Mitchell

July 31, 1987

PERSONAL & CONFIDENTIAL

The Honorable Nelson B. Robinson, Jr.
Commissioner
West Virginia Workers' Compensation Fund
601 Morris Street
Charleston, West Virginia 25301

RE: Medical Cost Containment Program

Dear Commissioner Robinson:

On behalf of the employers represented by McDonough Caperton's Workers' Compensation Management Programs Department, we endorse the concept that the proposed medical cost containment program represents. Escalating medical costs is a grave concern for employers and claimants alike.

Any cost containment program must be designed to fairly compensate quality medical care while preventing abuse by the medical provider and the claimant. In addition, care must be taken to protect the claimant from being treated unfairly by a provider whose charge is reduced.

We wish the Workers' Compensation Fund every success in this important undertaking.

Very truly yours,

Andrew N. Richardson
Director, Compensation
Management Programs

ANR/ks

SCOTT, CRAYTHORNE, LOWE, MULLEN & FOSTER, INC.

Orthopedic Surgery & Rehabilitation

2828 FIRST AVENUE, SUITE 400 P. O. BOX 3127
HUNTINGTON, WEST VIRGINIA 25702
TELEPHONE 304 - 525-6801

2000 CARTER AVENUE
ASHLAND, KENTUCKY 41101
TELEPHONE 606 - 329-0456

3 WOODLAND PLACE U.S. 23 SOUTH
PAINTSVILLE, KENTUCKY 41240
TELEPHONE 606 - 789-6442

FRANCIS A. SCOTT, M.D.
(1928-1974)

THOMAS F. SCOTT, M.D.
COLIN M. CRAYTHORNE, M.D.
ROBERT W. LOWE, M.D.
JOHN D. MULLEN, M.D.
EARL J. FOSTER, M.D.
KYLE R. HEGG, M.D.
DANIEL E. CARR, M.D.
J. DAVID THOMPSON, M.D.

Arthritic Care
Foot Surgery
Hand Surgery
Pediatric Orthopaedics
Physical Therapy
Scoliosis Clinic
Sports Medicine Clinic

July 22, 1987

Mr. John Leaberry
Workmens Compensation Fund
Post Office Box 3151
Charleston, West Virginia 25332

Dear Mr. Leaberry:

In reviewing charges proposed by the Compensation Fund, as our secretaries would interpret, you lumped Cottrell-Dubosset rodding for spinal fractures in with Harrington rodding. Quite frankly, at this point, those who have been advising you do not do the procedure inasmuch as the equipment manufacturer suggests I am the only one in the State that does this. This requires a great deal more fiddling and technical manipulating than many of the procedures we have done up to this point, but it is much more secure.

The usual charge for this in the surrounding area, i.e, Louisville and Lexington, is $6000.00. The charge we set up was our usual Harrington rod charge of approximately $4500.00 plus a CD technique surcharge of 60 units which is a little over $1200.00. This makes a significant change, but it reflects a days work in the operating room under trying circumstances. We suggest this particular fee in your schedule be altered.

Sincerely,

Robert W. Lowe, M.D.

RWL/mas

cc: Mr. John Farley

Page	CPT-4 Code	Description	Original Unit Value	Unit Valu Changed 1
III-29	20900	Bone graft; minor or small, any donor	2.40	4.40
III-29	20902	Bone graft; major or large, any donor	4.80	8.00
III-41	22330	Open treatment and fusion, cervical spine; with local bone graft and/or internal fixation for fracture	24.00	32.00
III-44	22700	Lumbar spine fusion; anterior interbody fusion (includes graft)	24.00	32.00
III-44	22720	Lumbar spine fusion; Harrington or Knodt rod distraction fusion, with iliac or autogenous bone graft	30.00	40.00
III-48	23450	Magnuson type procedure	14.60	20.00
III-49	23472	Total shoulder	BR	40.00
III-51	23650	Shoulder dislocation, closed, manipulative reduction	BR	3.00
III-60	25000	Tendon sheath incision; at radial styloid for deQuervain's	4.40	7.00
III-61	25111	Excision ganglion cyst, wrist	6.00	7.00
III-67	25565	Closed reduction, radial and ulnar shaft fractures	5.40	10.00
III-68	25605	Closed reduction, distal radial fracture (Colles')	5.60	7.50
III-68	25611	Closed reduction, percutaneous pin fixation distal radial fracture	8.00	9.00
III-76	26410	Extensor tendon repair, dorsum of hand, single	3.00	8.00
III-77	26530	Arthroplasty, metacarpophalangeal joint, single	9.00	12.00
III-79	26605	Manipulative reduction, metacarpal fracture	2.40	4.00
III-87	27146	Osteotomy, iliac or acetabular (Pemberton or Salter Type)	20.00	24.00
III-88	27161	Osteotomy, femoral neck	22.60	23.00
III-90	27236	Austin Moore prosthesis	20.00	24.00
III-90	27244	Closed or open, open reduction with internal fixation, intertrochanteric fracture	20.00	22.60
III-92	27331	Arthrotomy with joint exploration, with or without biopsy, with or without removal of loose bodies	12.50	13.40
III-94	27405	Repair, primary, torn, ruptured or severed ligament with or without meniscectomy, knee, collateral	14.00	18.00
III-94	27409	Repair, primary, torn, ruptured or severed ligament, collateral and cruciate	18.00	22.00
III-95	27443	Arthroplasty, knee, with debridement and partial synovectomy	25.00	29.00
III-95	27447	Total knee replacement	40.00	48.00
III-97	27500	Fracture, shaft femur, closed, without reduction including **traction**	BR	20.00

Page	CPT-4 Code	Description	Original Unit Value	Unit Value Changed To
III-99	27570	Manipulation of the knee	1.20	3.20
III-99	27590	Above the knee amputation	14.50	20.00
III-100	27612	Arthrotomy, posterior capsular release, with or without Achilles tendon lengthening	10.00	11.00
III-102	27690	Transfer or transplant of tendon, single, into midfoot	8.00	12.00
III-103	27705	Osteotomy; tibia	12.00	17.00
III-103	27712	Osteotomy; multiple, with realignment on intramedullary rod	18.00	20.00
III-104	27752	Closed reduction, tibia shaft fracture	5.00	10.00
III-104	27756	Open reduction, internal fixation, tibia shaft	12.00	20.00
III-106	27814	Bimalleolar fracture, open reduction, internal fixation	12.00	16.00
III-106	27822	Trimalleolar fracture, open reduction, internal fixation, medial and/or lateral malleolus; only	14.50	17.00
III-107	27880	Below the knee amputation	12.00	19.00
III-110	28111	Hoffman procedure excision; metatarsal first head	7.00	10.00
III-115	28406	Closed reduction, percutaneous pin fixation, fractured os calcis	6.80	10.00
III-122	29710	Removal or bivalving; shoulder or hip spica, Minerva, or Risser jacket,etc.	0.60	0.80
III-122	29715	Removal or bivalving; turnbuckle jacket	0.70	0.80
III-122	29720	Repair of spica, body cast or jacket	0.24	1.00
III-122	29730	Windowing of cast	0.24	0.50
III-122	29740	Wedging of cast (except clubfoot casts)	0.30	0.50
III-122	29750	Wedging of clubfoot cast; unilateral	0.30	0.50
III-122	29751	Wedging of clubfoot cast; bilateral	0.40	0.80
III-122	29815	Arthroscopy, shoulder, diagnostic, with or without synovial biopsy (separate procedure)	BR	7.40
III-122	29819	Arthroscopy, shoulder, surgical; with removal of loose body or foreign body	BR	16.00
III-122	29820	Arthroscopy, shoulder, surgical; synovectomy, partial	BR	13.40
III-123	29821	Arthroscopy, shoulder, surgical; synovectomy, complete	BR	16.00
III-123	29822	Arthroscopy, shoulder, surgical; debridement, limited	BR	16.00
III-123	29823	Arthroscopy, shoulder, surgical; debridement, extensive	BR	19.00

Page	CPT-4 Code	Description	Original Unit Value	Unit Value Changed To
III-123	29825	Arthroscopy, shoulder, surgical; with lysis and resection of adhesions with or without manipulation	BR	11.00
III-123	29830	Arthroscopy, elbow, diagnostic, with or without synovial biopsy (separate procedure)	BR	8.00
III-123	29834	Arthroscopy, elbow, surgical; with removal of loose body or foreign body	BR	16.00
III-123	29835	Arthroscopy, elbow, surgical; synovectomy, partial	BR	11.00
III-123	29836	Arthroscopy, elbow, surgical; synovectomy, complete	BR	19.00
III-123	29837	Arthroscopy, elbow, surgical; debridement, limited	BR	16.00
III-123	29838	Arthroscopy, elbow, surgical; debridement, extensive	BR	19.00
III-123	29870	Arthroscopy, knee, diagnostic	BR	7.40
III-123	29871	Arthroscopy, knee, surgical; for infection, lavage and drainage	BR	11.00
III-123	29872	Arthroscopy, knee, surgical; for infection, lavage and drainage with suction irrigation	BR	16.00
III-123	29874	Arthroscopy, knee, surgical; for removal of loose body or foreign body (e.g., osteochondritis dissecans fragmentation, chondral fragmentation)	BR	16.00
III-123	29875	Arthroscopy with synovectomy	BR	13.40
III-124	29876	Arthroscopy, knee, surgical; synovectomy, major, two or more compartments (e.g., medial or lateral)	BR	19.00
III-124	29877	Arthroscopy, knee, surgical; debridement with cartilage shaving and/or drilling and/or resection of reactive synovium	BR	16.00
III-124	29879	Arthroscopy, knee, surgical; abrasion arthroplasty (includes chondroplasty where necessary) or multiple drilling	BR	19.00
III-124	29881	Arthroscopy with meniscectomy	BR	20.00
III-124	29882	Arthroscopy, knee, surgical; with meniscus repair (medial or lateral)	BR	16.00
III-124	29884	Arthroscopy, knee, surgical; with lysis of adhesions with or without manipulation (separate procedure)	BR	11.00
III-124	29886	Arthroscopy, knee, surgical; drilling for intact osteochondritis dissecans lesion	BR	16.00
III-124	29887	Arthroscopy, knee, surgical; drilling for intact osteochondritis dissecans lesion with internal fixation	BR	19.00
III-124	29890	Arthroscopy, ankle, diagnostic, with or without synovial biopsy (separate procedure)	BR	8.00
III-124	29894	Arthroscopy, ankle, surgical; with removal of loose body or foreign body	BR	16.00

Page	CPT-4 Code	Description	Original Unit Value	Unit Value Changed To
III-124	29895	Arthroscopy, ankle, surgical; synovectomy, partial	BR	11.00
III-124	29896	Arthroscopy, ankle, surgical; synovectomy, complete	BR	16.00
III-124	29897	Arthroscopy, ankle, surgical; debridement, limited	BR	13.00
III-124	29898	Arthroscopy, ankle, surgical; debridement, extensive	BR	16.00
III-262	62292	Injection procedure for chemonucleolysis, including diskography, intervertebral disk, single or multiple levels; lumbar	13.00	13.40
III-263	63030	Lumbar laminectomy for herniated intervertebral disk	22.00	28.00
III-271	64721	Release of carpal tunnel syndrome	10.00	8.00