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F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/12/09

SPONSOR Ingle **LAST UPDATED** **HB**

SHORT TITLE Health Care Provider Workers' Comp Payments **SB** 326

ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
		Indeterminate but Substantial	Indeterminate but Substantial	Indeterminate but Substantial	Recurring	Workers' Compensation Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Workers' Compensation Administration (WCA)
Health Policy Commission (HPC)

No Response Received From
Department of Health

SUMMARY

Synopsis of Bill

Senate Bill 326 amends Section 52-4-5 NMSA 1978 requiring the director of the Workers' Compensation Administration to develop and adopt regulations establishing a schedule of maximum allowable payments for health care providers. The proposed legislation also allows employers or insurers to pay providers over the fee schedule under contractual agreements.

FISCAL IMPLICATIONS

WCA noted the purpose of establishing medical fee schedules for medical services is to reduce the rising costs of healthcare in workers' compensation. Fee schedules alone do not achieve the objective of slowing medical costs, but are one component in the process. According to National Council on Compensation Insurance (2007), total medical costs are made up of two components: medical pricing of services and the utilization of the services. Research shows that some fee schedules do impact the costs of medical services, but in a number of cases utilization causes costs to increase.

In 1993, Workers' Compensation Research Institute (WCRI) outlined three objectives for establishing a fee schedule in a state: to contain costs, to simplify administration, and to equalize payments to providers. Currently, fee schedules are used by the workers' compensation community (insurers and healthcare providers) in negotiating prices of medical services under a contract. Physicians or healthcare providers not under contract receive the billed charged amount of the services up to the maximum allowable amount established by the fee schedule.

WCA stated that in New Mexico, the Statutory Physicians' Fee Schedule was established as a result of the revised statute of NMSA 1978, Chapter 52 in the second legislative session of 1990. In 1991 and 1992, the Medical Advisory Committee made up of insurers and medical providers suggested to the WCA director to contract for the development of the New Mexico Statutory Physicians' Fee Schedule. Medical Data Review (MDR) Inc. provided the first maximum allowable physician fee schedule for the New Mexico workers' compensation system. The 1992 fee schedule established was calculated to be the fourth highest fee schedule in the country based on the median prices of all fee schedules utilized in 1992 (WCRI, December 1993). In 1994, the economic research staff of the WCA was tasked to look into the issues of the medical fee schedule and verify if the billed charges of New Mexico providers would justify the MDR schedule. The economic research report (Medical Fee Development Study, 1994) did find differences between the provider charges information from the Health Insurance Association of America data and the 60th percentile base of the MDR maximum allowable physicians' fee schedule. The Health Insurance Association of America data only claimed to have approximately 2 percent of the provider charges data from New Mexico providers. Based on the information, the Medical Advisory Committee proposed that the WCA collect the New Mexico provider charges data from insurance carriers, Medicaid and Medicare programs and any other health provider organization and develop a new physician fee schedule.

WCA reported the developed fee schedule had numerous problems and was not well received by the stakeholders of the system. In using the data from the insurance companies and the Medicaid program, the following problems emerged: (1) Procedures were bundled on billing data and extraction of price information was not possible, (2) Procedures were limited to the population of treatments accessible through the defined insurer: this meant a number of current procedural terminology codes were not being utilized and would have a by report designation, (3) Insurers would not provide data that included the physician identification, billing number, location of services provided and physician specialty. This information would be used to identify specialty type and geographical location of services.

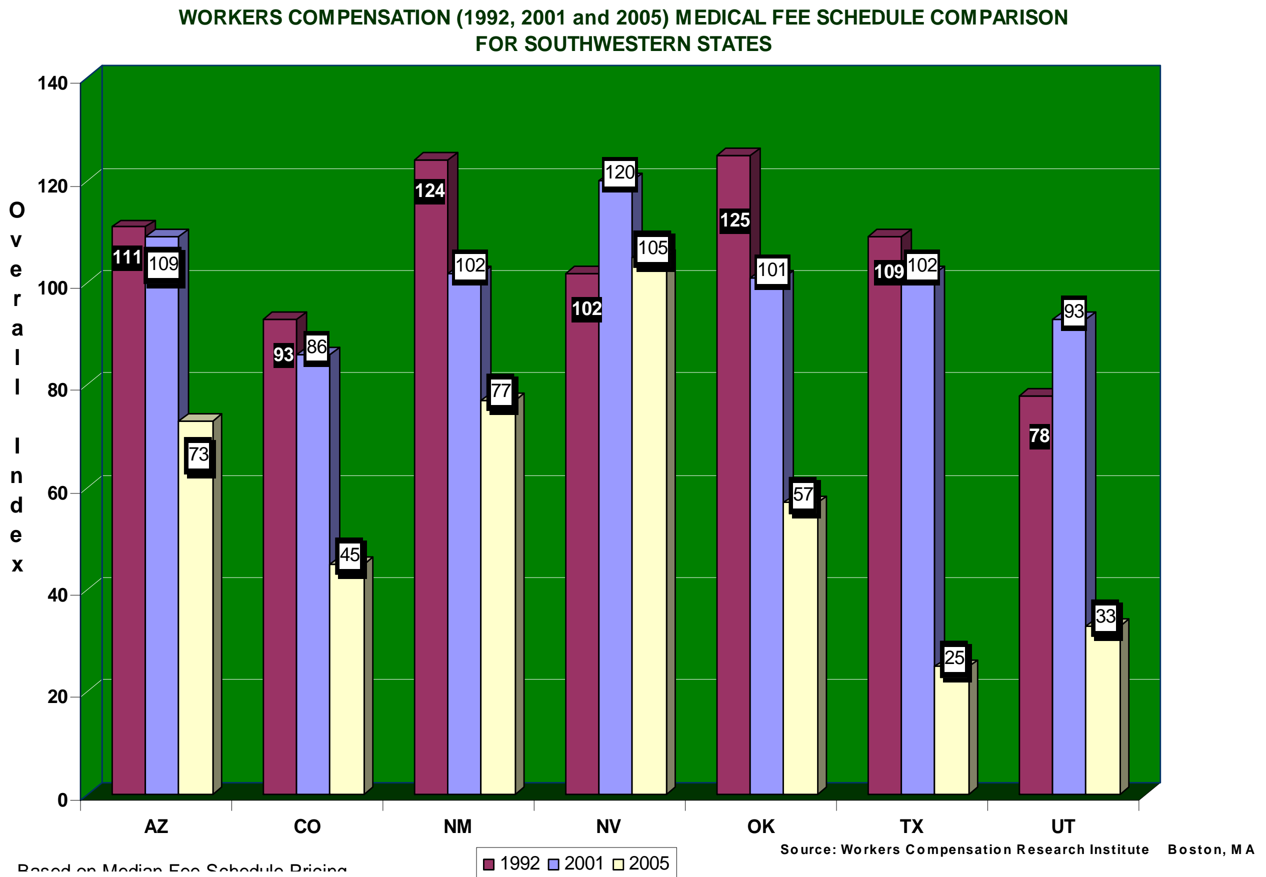
WCA stated the proposed legislation limits the data sources possible to develop an accurate and fair-balanced fee schedule. Currently from workers' compensation insurers, the data only contains 443 usable current procedural terminology codes. This is only about 5 percent of the entire medical fee schedule that is produced. Under the regional data sources, the current fee schedule has 96.63 percent of the current procedural terminology codes of the American Medical Association guide.

WCA noted if the proposed legislation were enacted, to obtain New Mexico specific workers' compensation bill charged data, the administration would require the following:

(1) Each insurer in the state must provide all current procedural terminology outpatient service billed charges in a format requested by the director within timeframes specified.
(2) All billing data has identified billing numbers and geographical locations.

(3) Each insurer in the state must be able to transfer the data in an electronic format.

WCA noted over time, with the use of just billed charge data without regional pricing considerations, the fee schedule will increase beyond the average regional pricing models. This experience was observed during the 1992 – 1996 period of the Workers' Compensation Physicians' Fee Schedule. Attached is a chart showing how New Mexico regional pricing was higher in 1992 relative to the region price index (Index to Medicare), and with the WCA regional pricing considerations, New Mexico's pricing became in-line with other states by 2005.



WCA reported the proposed legislation would create the need for two additional staff members to handle the computer programming and data collection processing, and another staff member to handle the current procedural terminology code billing data business requirements and analysis. Changes for insurers would include setting up data systems to collect and transfer outpatient current procedural terminology billed charge data. The set-up costs could be substantial. However, the biggest impact on the overall premium rates could be the change in allowing employers to contract fees at amounts greater than the fee schedule. This practice could create loss-cost imbalances between high-volume insurers and lower-volume insurers. In other words, insurers with market-size would have an advantage in pricing and services from medical providers versus insurers who did not have the market-size. This imbalance over time could increase healthcare costs for the workers' compensation system.

SIGNIFICANT ISSUES

WCA reported the proposed legislation would create resource issues within the administration in the data collection, analysis, and maintaining of all New Mexico billed charges of workers' compensation claims. Enforcement resources could also be impacted as it would be necessary to monitor reporting to ensure that the information necessary to develop the fee schedule is properly and timely submitted. Premiums for employers would be affected if regional pricing is not considered in the development of the current procedural terminology code Statutory Physicians' Fee Schedule. Additionally, premiums would be affected if employers contract with providers at rates higher than established WCA fee schedules. WCA noted the proposed legislation has not been considered or approved by the Workers' Compensation Advisory Council on Workers' Compensation and Occupational Disease.

HPC stated the proposed legislation amends Section 52-4-5 NMSA 1978 to provide clarification of the statute. This bill specifies that health care providers' compensation is derived from a maximum allowable payment schedule and not a fee schedule. The proposed legislation amends Section 52-4-5 NMSA 1978 to determine that the Director of the Workers' Compensation Administration is required to develop and adopt regulations establishing a schedule of maximum allowable payments for treatment, services, medicine, etc. provided by a health care provider. The payments listed on the schedule of maximum allowable payments must be between the 16th and 18th percentile of current charges by New Mexico health care providers. The director is required to revise the maximum allowable payment scheduled annually using the most current New Mexico Health Care Providers Workers' Compensation procedural terminology codes for determining current payments for health care providers. The proposed legislation determines that a provider's usual and customary fee for services rendered cannot exceed the maximum allowable payment, unless a contractual agreement is made with the employer. An employer has the ability to contract with a health care provider for a negotiated payment structure. HPC noted the proposed legislation correctly refers to the Advisory Council on Workers' Compensation and Occupational Disease Disablement.

ADMINISTRATIVE IMPLICATIONS

WCA reported it would take a year to setup an electronic data collection system for all insurers in the state.

HPC noted the Workers' Compensation Administration will need to provide staff and resources to assist the director and advisory committee with the development of a schedule of maximum allowable payments for health care providers.

RPG/mc