

Members

Rep. Matthew Lehman, Chairperson
Rep. Robert Heaton
Rep. Charlie Brown
Rep. Phil GiaQuinta
Sen. James Smith, Vice-Chairperson
Sen. Travis Holdman
Sen. Greg Taylor
Sen. Frank Mrvan



INTERIM STUDY COMMITTEE ON INSURANCE

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Authority: IC 2-5-33.3

MEETING MINUTES¹

Meeting Date: October 23, 2012
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Rep. Matthew Lehman, Chairperson; Rep. Phil GiaQuinta; Sen. James Smith, Vice-Chairperson; Sen. Travis Holdman; Sen. Greg Taylor; Sen. Frank Mrvan.

Members Absent: Rep. Robert Heaton; Rep. Charlie Brown.

Followup from October 10, 2012 Meeting

Rep. Lehman called the meeting to order at 1:05 p.m. He requested from Mike Ripley, Indiana Chamber of Commerce, an update on the negotiations between the Indiana Hospital Association (IHA) and the Insurance Institute of Indiana (III) concerning worker's compensation hospital reimbursements.

Mr. Ripley discussed his work with the IHA and the III, explaining that the IHA had proposed a resolution of the worker's compensation hospital reimbursement issue. He stated that the IHA's proposal is to base the reimbursements on commercial insurance reimbursement rates and that the III was unable to agree to the proposal. Mr. Ripley stated that he believes the parties are "back to square one" with both having legitimate reasons for their lack of agreement.

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative> Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Tim Kennedy, IHA, described the IHA's proposal to work toward the common goal of making worker's compensation hospital reimbursements closer to commercial insurance reimbursement rates. He stated that the proposal would apply a part of each hospital's average discount under commercial preferred provider organization (PPO) contracts to worker's compensation charges. Mr. Kennedy explained that each hospital would be required to report their average discount under the PPO contracts as part of the hospital's statutory financial disclosures to the Indiana State Department of Health (ISDH), which requires independently audited financial reports.

Mr. Kennedy stated that the III did not agree with the proposal, but that the IHA is open to further discussions.

In response to questions from Rep. Lehman and Sen. Smith, Mr. Kennedy stated that:

- (1) the percentage reduction from hospitals' average commercial PPO discount would be a single percentage applied to all hospitals' individual charges;
- (2) hospital worker's compensation reimbursement is based on the statutorily determined "80th percentile/geozip" amount for a service;
- (3) each geozip area has at least ten hospitals in it; and
- (4) appeals of reimbursed amounts are brought after a hospital determines whether an appeal is likely to be worth the expense involved in appealing.

Jon Zarich, III, explained that the III's advocacy of using a "Medicare plus" method of determining hospital worker's compensation reimbursement is based on the public availability of Medicare rates, and that the IHA's proposal requires insurers to simply trust the hospitals in providing accurate information. Additionally, he noted that:

- (1) discrepancies in hospital billing codes could cause problems with a commercial insurance based method since the codes used are not standardized, as opposed to Medicare codes which are standardized;
- (2) the payer has the burden of proof in court; and
- (3) consideration of market share is not included in the commercial rate proposal.

In response to questions from Rep. Lehman, Sen. Smith, Sen. Taylor, Sen. Mrvan, and Rep. GiaQuinta, Mr. Zarich stated that:

- (1) the III continues to prefer the "Medicare plus" method, but the III would be willing to look at a written document containing details of the IHA's commercial based proposal;
- (2) he acknowledges the population differences between Medicare recipients and worker's compensation insureds, but there are differences between worker's compensation insureds and commercially insured individuals who are injured, as well;
- (3) the burden of proof in court is on the insurer, despite the fact that the insurers don't have access to information needed to determine the statutory

- payment under the current system;
- (4) the III represents insurers having a majority of the property and casualty insurance market in Indiana (which includes worker's compensation) and does not represent health insurers;
- (5) there is likely little difference between a worker's compensation patient and a commercially insured patient in actual treatment of a particular injury, but there is no worker's compensation volume discount given by hospitals as there is in commercial insurance which is typically associated with a provider network; and
- (6) public availability of Medicare rates and billing codes may be more important than the difference between the Medicare population and the worker's compensation population in determining worker's compensation hospital reimbursements.

In response to questions from Sen. Taylor, Mr. Kennedy and Mr. Zarich agreed to provide to Sen. Taylor the factors that are considered by hospitals and by insurers in negotiating commercial insurance hospital reimbursement rates. Mr. Kennedy also agreed to provide to Sen. Taylor the hospital cost reports from the five largest hospitals in Indiana.

In response to general conversation among the members, Rep. Lehman stated that:

- (1) the Indiana Compensation Rating Bureau (ICRB) sets worker's compensation premium rates in Indiana, from which worker's compensation insurers may deviate;
- (2) worker's compensation reimbursement rates are not reported to the Department of Insurance, which regulates insurers, but does not regulate reimbursement rates; and
- (3) the ICRB and the Worker's Compensation Board of Indiana regulate worker's compensation reimbursement.

Final Report

Rep. Lehman provided a summary of the Committee's work, stating his belief that there is agreement between the IHA and the III that moving hospital worker's compensation reimbursement closer to commercial rates is the goal. He stated that there will be a bill introduced during the 2013 session of the General Assembly, and that providers, payers, repricers, and other interested parties should contact him before December 1, 2012, with suggestions for addressing the issues discussed during the Interim.

Sen. Taylor requested inclusion in discussions of possible solutions to the issues.

A motion was made and seconded to approve the Final Report². The Final Report was approved by unanimous voice vote.

²Attachment 1.

With no further business to discuss, Rep. Lehman adjourned the meeting at 1:45 p.m.

Interim Study Committee on Insurance

I. STATUTORY DIRECTIVE

In 2011, the Indiana General Assembly enacted IC 2-5-33.3 establishing the Committee to "study insurance in Indiana as follows:

- (1) Issues determined by the chairperson of the committee.
- (2) Issues assigned by the legislative council.
- (3) Issues regulated under IC 27.
- (4) Worker's compensation insurance."

The Legislative Council did not assign to the Committee any additional subject matter for study during the 2012 interim.

II. INTRODUCTION AND REASONS FOR STUDY

Current Indiana law contained in IC 27 governs regulation of insurance companies (including worker's compensation insurance companies) doing business in Indiana and insurance-related matters affecting Indiana residents. Additionally, IC 22 regulates Indiana's worker's compensation system.

The Committee was established to facilitate the study of insurance-related issues that require more extensive study than is feasible during a session of the General Assembly, and to annually report its findings and recommendations for any proposed legislation to the Legislative Council.

III. SUMMARY OF WORK PROGRAM

The Committee met four times during the 2012 interim.

First Meeting

The first meeting of the Committee was held as a joint meeting with the Health Finance Commission on September 19, 2012. The Committee considered testimony concerning the following:

- (1) Implementation of the federal Patient Protection and Affordable Care Act in Indiana.
- (2) Tobacco harm reduction.

Second Meeting

The second meeting of the Committee was held on September 25, 2012. The

Committee considered testimony concerning worker's compensation insurance in Indiana.

Third Meeting

The third meeting of the Committee was held on October 10, 2012. The Committee considered the following:

- (1) Comparison of Indiana's worker's compensation benefits and costs with those of other states.
- (2) A report of negotiations concerning a worker's compensation insurance hospital reimbursement rate methodology.
- (3) Captive insurance company formation in Indiana.

Fourth Meeting

The fourth meeting of the Committee was held on October 23, 2012. The Committee considered its final report to the General Assembly.

IV. SUMMARY OF TESTIMONY

Minutes and attachments containing more detailed information concerning the Committee's 2012 interim work may be found at <http://www.in.gov/legislative/interim/>

The Committee heard testimony from representatives of the following groups:

- (1) Consolidated Insurance Services, Inc.
- (2) FAIRPAY Solutions.
- (3) Indiana Chamber of Commerce.
- (4) Indiana Compensation Rating Bureau.
- (5) Indiana Family and Social Services Administration.
- (6) Indiana Hospital Association.
- (7) Insurance Institute of Indiana.
- (8) Indiana Manufacturers Association.
- (9) Milliman.
- (10) Reynolds American.
- (11) University of Louisville.
- (12) Worker's Compensation Board of Indiana.

Implementation of the federal Patient Protection and Affordable Care Act (PPACA) in Indiana

The Committee heard testimony concerning steps taken by the Administration toward

compliance with PPACA, including the Medicaid expansion and health insurance exchange provisions.

The members raised questions and received information concerning a Medicaid extension in the form of the Healthy Indiana Plan, federal tax credits and health insurance tax, the high risk provisions of PPACA, and essential health benefits under PPACA.

Tobacco harm reduction

The Committee heard testimony concerning smokeless tobacco as an alternative to smoking.

Worker's compensation insurance issues in Indiana

The Committee heard testimony concerning the following:

- (1) Worker's compensation cost containment and benefits, particularly with respect to the current hospital reimbursement methodology.
- (2) The history and current state of worker's compensation in Indiana, including the statutory structure, number of licensed insurers, and comparisons of rates, benefits, claims, and costs with other states.
- (3) Functions of the Worker's Compensation Board of Indiana, including differences between hospital reimbursement claims and other provider reimbursement claims.
- (4) Possible solutions to hospital reimbursement rate methodology issues.

Captive insurance company formation in Indiana

The Committee heard testimony concerning captive insurance companies, their purpose, potential benefits if authorized for formation in Indiana, and the need for scrutiny by a dedicated state regulator.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The focus of the Committee's work during the Interim was worker's compensation insurance in Indiana.

The Committee studied data related to cost containment with respect to worker's compensation medical payments. Hospital charges were the focus of this study.

The Committee also reviewed data comparing Indiana's worker's compensation benefit payments for injured employees to payments in other states.

The Committee finds that its study of worker's compensation insurance issues during this Interim provided the members with a better understanding of these issues, which should help the members in their work toward resolution of the issues.

The Committee makes no recommendations.

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WITNESS LIST

Steve Buyer, Reynolds American
Abel Contreras, Consolidated Insurance Services, Inc.
Ronald Cooper, Indiana Compensation Rating Bureau
Rob Damler, Milliman
Trevor Davis, FAIRPAY Solutions
Lars Erik, Swedish Match
Linda Hamilton, Worker's Compensation Board of Indiana
Tim Kennedy, Indiana Hospital Association
Mike Ripley, Indiana Chamber of Commerce
Ed Roberts, Indiana Manufacturers Association
Brad Rodu, University of Louisville
Seema Verma, Family and Social Services Administration
Marty Wood, Insurance Institute of Indiana

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