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**While expenses
have been slowly
increasing for health
care providers,
legislated payment
updates have
remained flat
since 2011.**

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A Report on Methodology for the Department of Labor and Industrial Relations' Workers' Compensation Medical Fee Schedule

Report No. 13-10, December 2013

*Increased use of data will drive a more comprehensive fee
review process*

Departmental Review of Transacted Medical Codes Would Ensure a Data-Driven Fee Schedule

Act 97, Session Laws of Hawai'i 2013, requires the State Auditor to assist the director of labor in administratively adjusting the workers' compensation medical fee schedule. In this report, our first of two responding to Act 97, we recommend a formalized process for the mandatory periodic review of Hawai'i's Workers' Compensation Medical Fee Schedule. State law requires employers to compensate an employee who is injured by accident or disease while on the job. Employers are also bound to furnish medical care, services, and supplies to employees as the nature of the injuries require. Liability of an employer for medical care, services, and supplies is limited to charges up to 110 percent of the federal Medicare fee schedule applicable to Hawai'i. The director uses the Medicare fee schedule to determine the charges for medical care and services in workers' compensation cases. Hawai'i law requires the director to update the fee schedules at least once every three years.

After working closely with the Department of Labor and Industrial Relations, we determined that the use of better data could enhance the existing fee schedule review process. Specifically, we recommend collecting and analyzing transacted current procedural terminology code data. Not only will such data capture paid physician and other health care professional services and procedures, it also represents the universe of medical services actively being delivered by health care providers in workers' compensation cases. We also propose establishing a second maximum allowable fee ceiling for Evaluation and Management (E/M) medical services. E/M services are the entry point for medical treatment in workers' compensation cases. The second fee ceiling will only apply to E/M services that have been identified by stakeholders as applicable to workers' compensation cases.

Department would need additional resources to annually review and adjust the fee schedule

Our methodology requires department personnel to annually collect, correlate, and analyze transacted CPT code data from five different sources. This differs from its current process, which involves a comprehensive review of a fixed number of codes every three years. Moreover, an annual review process must continue to fulfill statutory requirements of Chapter 201M, Hawai'i Revised Statutes (HRS), to determine the impact on small business, and of Chapter 91, HRS, to adopt administrative rules. As previously noted, the fee schedule resides in administrative rules. We project the department would need additional personnel resources both to continuously review and analyze CPT code data and determine small-business impact and adopt the department's administrative rules.

The 2013 Legislature funded 14 positions for the department beginning in January 2014; however, these positions will only partially restore the division's staffing to its pre-2009 levels. Although one of the restored positions is a research statistician in the Research and Statistics Office, this position will assume duties currently performed by the existing research statistician. For the office to effectively implement an annual fee schedule review, an additional research statistician III position should be added.

Agency response

We transmitted a draft of this report to the department on December 13, 2013. The department offered technical changes to the draft, but generally concurred with the proposed methodology and recommendations.