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3625 West Royal Lane
Suite 150
Irving, TX 75063
(972) 870-4100
www.firsthealth.com

Texas Senate Select Committee on Workers' Compensation April 29, 2004 Testimony First Health Group Corp.

Chairman Staples and Members of the Committee:

Thank you for the opportunity to appear before the Senate Select Committee on Workers' Compensation. My name is Tiffany Moore. I am a Director in First Health's Irving, Texas office. I am responsible for the development and management of First Health's workers' compensation and group health provider networks in the State of Texas. I joined First Health in 1996 following my employment with Parkland Health and Hospital Systems where I negotiated contracts with health plans.

First Health is honored to participate in this hearing and we look forward to being of assistance as you examine the impact of provider networks in the worker's compensation system. As background, First Health is a national health-benefits services company, specializing in providing large payors with integrated managed care solutions. First Health serves the group health, workers' compensation and public sector markets. First Health is the largest directly contracted workers' compensation provider network in the country. It provides its services to most of the largest private writers of workers' compensation coverage in the United States including those in Texas.

As requested, we have prepared "talking points" that may be of use to the Committee in its consideration of Committee Charge Two. I will now briefly cover those points.

- **Network Direction is Critical** - The ability to direct injured workers into a provider network is key to bringing savings to the workers' compensation system. Texas has historically been an "employee choice" of physician state and there may be a reluctance to change to full "employer choice." One accommodation is for the employee to have his or her choice of any physician within the network. California, which is also experiencing exceptionally high medical costs in its workers' compensation system, recently endorsed the concept of using provider networks in workers' compensation as a cost containment solution. Recently enacted provisions under Senate Bill 899 call for use of directed networks starting Jan. 1, 2005.

  Using networks, for example, can significantly reduce workers' compensation medical costs without increasing the duration of disability or wage-loss costs according to the Workers Compensation Research Institute's (WCRI) report, *The Impact of Workers' Compensation Networks on Medical Costs and Disability Payments*. (In this study, the WCRI analyzed more than 160,000 workers' compensation claims in California, Connecticut and Texas between August 1, 1995 and June 30, 1997.) The study found large cost differences between network and non-

network claims in medical costs. Specifically, the study noted that network medical costs are generally 30% to 50% lower than non-network medical costs for similar claims in California and Texas. Savings, according to the study, resulted primarily from reduced utilization of medical services in networks – compared to non-networks—though lower reimbursement for network providers also helped reduce costs. The study also concluded that network savings in medical costs do not raise indemnity costs.

- **Provider Networks Already Exist in System; MCO Programs More Cumbersome to Implement** – Provider networks already exist in the Texas workers' compensation system; therefore, creation of standards related to directed networks would be far easier to implement in the existing system than the creation and implementation of a comprehensive MCO program.

- **Fee Disputes Best Resolved Under Provider Contract Terms-** Fee disputes from network providers can and should be resolved through the network pursuant to the provisions of the provider contract; this would significantly reduce the number of disputes TWCC would have to address. As an example, California's statutory language (Labor Code § 5304) specifically permitting resolution of disputes pursuant to an agreement between the provider and the insurer or employer has been instrumental in allowing the private contracting parties to resolve the controversy as a matter of contract rather than bringing the matter before California's Workers' Compensation Appeals Board.

- **Dispute Resolution (Medical)** - Medical disputes need to be resolved through the party reviewing the care (insurer, utilization review agent, etc.). Although the provider network evaluates practice patterns through its quality assessment process, disputes over medical necessity determinations for a specific case should be appealed directly through the party performing the medical necessity review.

- **Consistency In Requirements for Health and Workers' Comp. Networks** - Network requirements for workers' compensation should generally be the same as for health insurance. Consistency in network requirements between health care delivery systems eases the administrative burden on all parties. With the exception of certain specialties that do not typically treat workers' compensation injuries, providers are generally contracted for network participation for both health plan payors and workers' compensation payors (although this effort has been somewhat compromised because of the impact the ADL has had).

There are well-established guidelines under Article 3.70-3C of the Texas Insurance Code and through the Texas Dept. of Insurance regarding networks that have already been adopted as minimum standards for workers' compensation networks under HB 2600 of the 77th Legislature. These statutory guidelines include, but are not limited to:

- Due process through a review panel if network status is not granted or if network participation is terminated;
- Requirement to have a dispute resolution mechanism available for providers and patients;
- Requirement for availability and accessibility of adequate providers, specialty care, and facilities for the treatment of covered illnesses and injuries; and
- Continuity of care requirements.

Although there are clear compliance obligations and a regulatory framework for networks, certification is not currently required for health networks.

- **Network Adequacy/Access/Credentialing** - Network adequacy and access to care are contingent on the ADL process. Implementation of the ADL significantly restricted the number of providers available to injured workers and hindered networks' ability to attract providers to the workers' compensation system. The network credentialing process and continuing quality assessment could supplant the ADL process for provider's participating in networks, thereby, increasing access to care for injured workers and reducing the burden on TWCC without foregoing a measure of quality for providers in the workers' compensation system.

- **Network Quality Assessment** - Networks can monitor, through their QA process, quality of care indicators (appropriateness, over-utilization, etc.) and billing practices of contracted providers and follow-up, as necessary, with individual providers. Disputes over specific cases involving authorization for treatment, however, should be resolved through the party performing the preauthorization function.

We also prepared a couple of "talking points" with regard to MCO programs that may also be a consideration of the Committee as it explores the impact of networks on the workers' compensation system. First Health offers MCO services in 17 states either through its own certified programs or in support of a payor's certification.

- **Network Availability Outside Certified Program** - If an MCO program is implemented, carriers and employers should be able to offer a provider network outside the certified program. States with MCO programs also permit managed care services outside of the certified arrangement. California, which has offered an MCO program through certified health care organizations (HCOs) since 1993 has always permitted provider networks outside the HCO and with the enactment of SB 899 calls for directed network starting January 1, 2005.

- **Clear Statutory Language Key to Successful Implementation** - Key to the successful implementation and operation of an MCO is clear statutory and/or regulatory language with regard to:

  - Who can apply for certification;
  - Who can perform medical review; and

- When and how an injured worker becomes subject to the MCO program and the period of medical control under the MCO.

Thank you for your time and consideration. We look forward to providing any assistance or information the Committee may require on the operation of provider networks and being part of the solution for a better workers' compensation system in Texas. I would be happy to address any questions at this time.