

March 25, 2004

To: The Senate Select Interim Committee on Workers' Compensation

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Thank you for this opportunity to testify regarding the Texas Workers' Compensation system.

I am an Occupational Therapist and I represent the interests of occupational therapy patients, the 1,200 members of the Occupational Therapy Association, and over 5000 occupational therapists in the state of Texas.

Many of the members of the Texas Occupational Therapy Association are involved in caring for injured workers, as well as, helping employers prevent injuries and make modifications to the workplace to allow workers to quickly return to the workforce.

Occupational Therapy professionals, along with many others, are finding themselves working harder with less reimbursement while spending an ever-increasing amount of time trying to get carriers to pay legitimate claims. Many injured workers are not getting the care they need or are not getting it in a timely fashion, hindering their ability to return to work. This situation also financially harms the employers who pay to participate in the workers' compensation system and who want their trained employees to receive appropriate care, and return to be productive members at their workplace.

There appear to be two major issues within the current system:

1. insurance carriers who deny legitimate claims, ask providers to resubmit claims multiple times for insignificant reasons thus delaying payments, and generally fail to pay claims in a timely fashion; and
2. the failure to aggressively identify and audit the unscrupulous providers who are overcharging for their services, charging for services that have not been rendered, charging for services as though they have been provided by a licensed professional when there are none on the staff, or charging for the use of equipment the clinic does not possess.

I would like to speak to several specific concerns of the members of the Texas Occupational Therapy Association.

Regarding the audit process, the Texas Workers' Compensation Commission's auditing process needs to be strengthened. Providers should have a clear understanding that when the services they provide fall outside normal parameters, the service will not be paid until audited. The TWCC should be required to complete that review within five business days of the request.

Increasing the involvement of field office personnel could impact both timeliness and compliance. Providers would be less likely to bill for services for which they do not have the appropriate staff or equipment if field office personnel were required to make periodic visits to monitor clinics where injured workers are treated.

Regarding prompt payment, applying the principals in SB 418, 78th Regular Session, the prompt pay bill, could improve the efficiency of the workers' compensation system. If patients were required to be pre-certified, inappropriate or unnecessary care would be avoided. However, once pre-certified, prompt payment should be made for services rendered.

Regarding cost containment, a key component in containing costs is developing a better system of tracking what type of provider is actually providing the service. Standards should be established for the type of staff and equipment necessary for certain services. The agency should certify that these standards are met before payment can occur.

The current use of Medicare "policies" and using Medicare as a model for medical fee guidelines needs to be changed. Medicare is designed for a population that is primarily elderly. Workers' compensation is designed for the benefit of injured employees. It is inappropriate to apply the same policies to two such populations where the goals are so disparate. Applying Medicare policies across the board is detrimental to providers' ability to provide needed (and statutorily required) care to injured employees.

Regarding return to work issues, guidelines need to be developed for chronic pain management and medical rehabilitation. Many patients continue to receive care when it is obvious there is no ability to return to work. Several steps should be taken to address this. First, providers should contact the employer when a patient is referred. Employers must be required to participate in the return to work process. The determination should be made if there is a job for the employee to return to and, if so, are modifications necessary. Second, for a patient to qualify for work hardening or work conditioning, a recent work history within the last 12 months should be required. If not, a requirement should exist that the service must be pre-certified before it can begin.

Finally, there needs to be a link between TWCC and TRC. When it becomes clear that a patient is no longer appropriate for care through TWCC, the patient should be referred to TRC. Currently there appears to be substantial opportunity for improved coordination between the two agencies and reluctance on the part of TWCC personnel to allow referrals of an injured worker to be made.

Again, thanks for the opportunity to testify. I will be happy to try to answer any questions you may have.