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Evaluating Legislative and Administrative Reforms in Workers Compensation

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Casualty Loss Reserve Seminar
September 6, 2012
Denver, Colorado

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Objectives


- Highlights of the Illinois reform House Bill 1698 (HB 1698)
- Discuss methods used to quantify impact of reform
- Additional considerations when evaluating reform

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Provisions of Illinois HB 1698
(Enacted June 28, 2011)


- **Medical Fee Schedule**
- **Wage Differential Benefits**
- **Determination of Permanent Partial Disability (PPD) Impairment**
- PPD Benefits for Carpel Tunnel Syndrome Claims
- Burden of Proof for Obtaining Compensation
- Temporary Partial Benefits
- Choice of Health Care Provider
- Utilization Review
- Drug Use and Alcohol Intoxication



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HB 1698 Medical Fee Schedule Changes
(Effective 9/1/2011)


- Applies to all medical services performed after 9/1/2011, regardless of the accident date
 - Uniform 30% reduction to maximums
 - Prescriptions filled and dispensed outside of a pharmacy are subject to a fee schedule of Average Wholesale Price plus a dispensing fee of \$4.18.
 - Reimbursement for surgical implant shall not exceed 25% above net invoice price



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Uniform 30% Reduction to Maximums

- What portion of medical payments are subject to the fee schedule?
- What portion of medical payments are subject to maximums that are based on percent of charges?
- How much of the fee schedule change do we expect to realize on payments?



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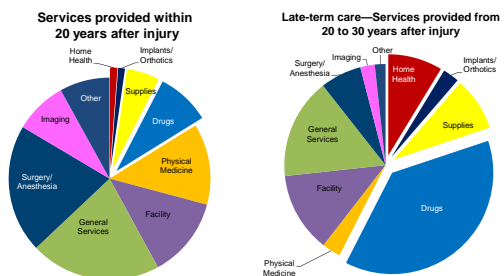
Share of Medical Payments Subject to the Fee Schedule

- The proportion that each medical service category makes of unpaid losses shifts as an accident year matures
- Procedures subject to specific maximums apply mostly to physician and facility services
- The majority of drug payments are not subject to the fee schedule
- Most home health services are subject to percent of charge methodology
- The share of drugs and home health payments represents a greater share of total medical payments for the more mature accident years

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Distribution of Payments by Service Category



Drugs, Supplies, Implants/Orthotics, and Home Health Services make up less than one-sixth of the cost for cases less than 20 years old but well over half of the outlay for late-term care, provided from 20 to 30 years after injury

See ncci.com for research by Barry Lipton and Dan Corro (2012), "Medical Services for Claims 20 Years Old or Older"
 Source: NCCI Medical Data Call, Services provided between 1/1/09 and 4/1/11 and transactions processed between 7/1/10 and 4/1/11
 Based on data from the 35 states for which NCCI provides ratemaking services plus IN, MA, MN, NC, NJ, NY, and WI

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What is the Share of Payments with No Specific Maximum?

- For those procedure codes with no specific maximum, reimbursement went from 76% of charges to 53.2% of charges
- Non-implantable devices or supplies subject to 65% of charges
- NCCI typically does not ascribe any savings to these types of fee schedule changes
- For those procedures subject to the percent of charge methodology, providers can raise their charges or change their billing practices to offset the reduction in fees

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How much of the fee schedule change do we expect to realize on payments?

- The medical fee schedule reductions may not apply where negotiated contracts exist
- The average price departure from the revised fee schedule maximums is not expected to be maintained after the significant fee reduction

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NCCI Research on the Impact of Fee Schedule Changes

- In response to a fee schedule increase, severity rises by about 80 percent of the legislated price level change, on average
 - The magnitude of this response varies with the difference between fee schedule prices and actual prices (price departure)
 - Alternatively, the magnitude of this response can be interpreted as varying with the price difference between the state's fee schedule and the fee schedules of its neighbors
- In response to a fee schedule decrease, severity declines by about 50 percent of the legislated change

See ncci.com for research by Frank Schmid and Nathan Lord (2012), "Impact of Changes to Physician Fee Schedules in Workers Compensation"

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Considerations for Medical Fee Schedule Changes

- What is the percent of unpaid medical payments that will be subject to the revised fee schedule?
 - For older accident years, smaller share of payments for physicians and facilities
 - For more recent accident years, greater share of payments for physicians and facilities
- How much of the change in maximums will be realized on payments?

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Wage Differential Benefits in Illinois

- Employees whose post-injury earnings are lower than their pre-injury earnings or who are unable to pursue their usual and customary line of employment due to a non-scheduled PPD injury are eligible to receive wage differential benefits
- This benefit is equal to 66 2/3% of the difference between the amount the employee would be able to earn at the time of the accident and the average amount being earned after the accident

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Changes to Wage Differential Benefits

- HB 1698 restricts the duration for which the wage differential benefits will be paid to age 67 or five years from the date the award becomes final, whichever is later
- Applicable for injuries occurring on or after September 1, 2011
- Prior to the enactment of HB 1698 there were no such restrictions on the duration of wage differential benefits

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Determining the Impact of the Changes to Wage Differential Benefits

- Using life mortality tables and annuity calculations for a 42 year old claimant, as well as a discount rate of 3.5%, the impact on claim amounts would be -20% on average
- Surveyed stakeholders to obtain information on the percentage of non-scheduled permanent partial disability benefits attributable to wage differential benefits
- Determine the share of non-schedule PPD benefits

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Determining the Impact of the Changes to Wage Differential Benefits

		Impact
(1)	Average percentage impact on wage differential benefits due to duration cap	-20%
(2)	Wage differential benefits as percent of non-scheduled permanent partial disability (PPD)	25%
(3)	Impact on non-scheduled PPD benefits = (1) x (2)	-5.0%
(4)	Non-scheduled PPD benefits as % of PPD claim costs	40%
(5)	Impact on PPD claim costs = (3) x (4)	-2.0%
(6)	PPD claim cost as % of indemnity costs	85.8%
(7)	Total impact on indemnity costs in Illinois = (5) x (6)	-1.7%
(8)	Indemnity costs as a percentage of overall workers compensation system costs in Illinois	49.9%
(9)	Total impact on overall workers compensation system costs in Illinois = (7) x (8)	-0.8%

Data Sources:
 (4) NCCI Detailed Claim Information for Illinois
 (6) NCCI WC Statistical Plan Data for Illinois
 (8) Based on Policy Years 2007-2008 NCCI Financial Call data for Illinois projected to 9/1/2011

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Determination of PPD Impairment

- Prior to HB 1698, Illinois specific guidelines are used when determining PPD ratings. There was no provision in the Illinois statutes or regulations requiring use of the American Medical Association (AMA) Guides when determining the degree of permanent impairment
- HB 1698 requires that the current edition of the AMA Guides shall be applied when determining the level of impairment
- Applicable for injuries occurring on or after September 1, 2011

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Considerations in Assessing the Impact of the 6th Edition AMA Guides

- The use of the 6th edition of the AMA Guides may result in different impairment ratings than those determined prior to enactment of HB 1698
- There is uncertainty as to how the new rating methodologies will be interpreted and administered
- How quickly will physician practices reflect a comprehensive understanding and accurate application of the AMA Guides

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NCCI Research on the Impact of the 6th Edition AMA Guides

- The impact of switching to the 6th edition on a state's workers compensation costs will depend on
 - changes in the average impairment and/or disability ratings
 - the percentage of statewide benefits attributable to PPD benefits
- Given the wide variation among states in the benefit structure, impairment determinations and delivery systems, a change in the use of the AMA guides from 5th to 6th edition can result in significantly different results from the states studied

See ncci.com for research by Rob Moss, David McFarland, CJ Mohin, and Ben Haynes (2012).
Impact on Impairment Ratings From Switching to the AMA 6th Edition of the Guides to the Evaluation of Permanent Impairment

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Summary of Considerations When Evaluating Reforms

- Do the reform changes affect all unpaid losses or only claims occurring on or after a certain injury date?
- Can you determine the share of payments that would be affected?
- Is there any relevant research that is available that can help determine the impact from the reform provisions?

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