

Labor and Public Employees Committee

February 18, 2014

Testimony

Raised Bill # 61 – AN ACT CONCERNING WORKERS’ COMPENSATION AND LIABILITY FOR HOSPITAL SERVICES

Good Afternoon Senator Osten, Representative Tercyak and members of the Labor and Public Employees Committee. I am Diane Ritucci, President & Chief Executive Officer, Workers’ Compensation Trust, Wallingford, CT.

The Trust is an employer mutual association which for the past 33 years, provides workers’ compensation insurance coverage to over 400 healthcare and human service organizations throughout the State. The vast majority of our members receive significant funding from the Departments of Children & Families, Mental Health & Addiction and Developmental Services. They have withstood multi-year budget cuts and reductions in funding for the past several years and yet continue to provide necessary services. All profit generated by us goes back to the members of the Trust. To date we have given out over \$23,000,000.

I myself have been in the workers’ compensation business for over 33 years and I have never seen such havoc as we have today as it relates to the payment of hospital bills. All of us who work in this industry rely heavily upon the Bulletins issued by the State of Connecticut Workers’ Compensation Commission as our “bible” to help us determine the appropriate handling of cases. These bulletins contain all the workers’ compensation statutes and related statutes that are needed to adjudicate claims.

It is important to note that, Bulletin No. 34 issued in 1979 and Bulletin No. 50 issued in 2013, contain the exact same language as to the payment of hospitals. Section 31-294d(d) states that “the liability of the employer for hospital service shall be the amount it actually costs the hospital to render the service”. Another important note is that between these two publishing dates, the workers’ compensation system went through at least 3 major reforms—1991, 1993 and 1995. Every statute was reviewed and overhauled during those years and still that language survived. That was not an accident. There was a reason that that language held up for over 30 years and the reason is because that is what was intended. It was never intended that hospitals make profit on the backs of injured workers.

Our experience is that hospitals certainly understood the statute existed and accepted the payment accordingly. Our reconsideration request rate was almost negligible and was never because hospitals were questioning the payment based on cost, but rather that we were missing information and that information was now available.

All that has changed, as in March 2012, an attorney brought 4 cases before a single workers compensation commissioner in the Norwich district to challenge the “actual cost” language. And, that commissioner made a very bad decision that has sent employers in this state reeling ever since. Commissioner Schoolcraft’s decision said that Section 31-294d(d) is no longer applicable and the employers must either negotiate lower rates with hospitals or they must pay published charges.

So, now what are hospitals doing? They are saying that due to the Schoolcraft decision, we will not negotiate with you; we want billed charges. Hospitals have never gotten billed charges from any payor

system. There are reasons why. The median cost mark up for hospitals is 143% from cost to billed charges. While we believe the Schoolcraft decision will one day be reversed upon appeal, we have real issues in the meantime. The Trust and self-insured employers do not have the negotiating power of large insurance carriers and they have relied on the plain language of the statute to pay a reasonable fee for hospital services. But, now that plain language has been rendered useless by the Schoolcraft decision and the Workers' Compensation Commission which has indicated they do not have enough information to determine what "actual costs" really means.

To put hospital billing practices as it relates to workers' compensation, in some sort of context, I share the following:

- 1) According to Health Strategy Associates, workers' compensation medical expenses account for less than one-fiftieth of total US health care costs, yet workers' compensation generates almost one-sixth of hospital profits.
- 2) The latest information from the Workers' Compensation Research Institute (WCRI) indicates that inpatient hospital payments were up 35% on average for the 5 years between 2005-2010, while the average payment per claim for hospital outpatient treatment/operating room /recovery room services increased by 62 percent.

From the insurance industry perspective:

- 1) A key metric of the workers' compensation industry is the combined ratio. This ratio measures the profitability of the industry. The calendar year combined loss ratio for CT in 2012 was 112. This ratio means that for every \$1 in premium collected, \$1.12 is paid out in losses. This is the 5th highest combined loss ratio in the nation. Investment income helps, but with investment yields the way they are today, the math doesn't work. Insurance companies are losing money and the only recourse is to raise premium and increase cost for employers.
- 2) NCCI has filed for workers' compensation rate increases for the past 5 calendar years in order to adequately fund for the loss projections. This is a direct hit for business all over our State.

From the payer perspective, these are actual examples of issues that we have encountered in the past 12 months.

- 1) A knee procedure was performed in a one-day surgery center at a large teaching hospital. The total bill for the use of the operating room and recovery room for this 5 hour stay was \$26,000. This amount does not include the surgeons fee or the anesthesiologist. Just the facility charge. If the bill was paid by the group health carrier, the hospital would have been paid \$3800 or 15% of billed charges. Because it was a workers' compensation claim, if paid according to the "actual cost" statute that is on the books, the payment would have been \$5900, a 55% increase over the group health payment. If paid under the Schoolcraft decision, billed charges, it would have been an additional \$20,000.
- 2) In a recent contested case before the Workers' Compensation Commission, the Trust learned that the cost of the hospital services for a back surgery already performed was \$100,319. The group health carrier had resolved these bills for \$8,000, while the claim was being contested. This is the amount of the lien against the workers' compensation claim. If the Trust accepts liability in this case we will be asked to reimburse the group health carrier the \$8,000 instead

of paying the billed amount of \$100,319. That is 1100% increase purely because workers' compensation is the payer—not that any service was performed differently.

- 3) A large hospital recently began “balance billing” patients for the difference between billed charges and appropriate reduced payments based on items included in the current fee schedule.
- 4) The same attorney firm that brought the issue before Schoolcraft now represents that there are at least 1800 claims from the same four hospitals that require additional payments as they were (in their opinion) erroneously paid based on the “actual cost” statute. A reservation of rights has been placed on each file. The WCC has indicated that hearings would have to be held on each and every case to determine the appropriate fee. Many of these claims go back several years and no issues were ever raised as to the appropriateness of payment by the hospitals. Claims have been closed and settled as there were no outstanding issues. WC policies were written and priced based on the loss experience of the company, which did not factor in “unknown and unpaid hospital bills”.

As an employer, a payor, and a citizen of this State, I can tell you that the current hospital billing environment is a huge problem. Raised Bill 61 has been proposed to fix this problem. The intent of the bill is to clarify a strong, objective way in which hospitals will be paid under the workers' compensation system in CT.

Few dispute that employers should adequately reimburse hospitals for their services. It is equally indisputable that under the current statute, employers are adequately reimbursing hospitals by paying more than their fair share. We fully understand that reimbursements from Medicaid and Medicare, and the general care of the uninsured, creates a financial burden for hospitals. But the already overburdened workers' compensation system should not be the source of this shortfall.

The rising cost of medical care has substantially impacted the cost of the workers' compensation system and is a key cost driver for increased premium. Even though we return all profits to our members, the members I serve cannot afford any more increase to their workers' compensation costs. These organizations have already experienced longstanding funding and budget cuts from the State and are still expected to do their best to provide much needed services to the mentally, physically, and emotionally challenged.

I implore you to help all employers by holding down hospital charges by passing this bill. Employers need a fair and equitable method of payment until a reasonable fee schedule can be accomplished. Any further deterioration in our payer system will have dramatic effect on the cost of Workers' compensation for all employers for many years to come.

I thank you for your time and attention. Should you need any further information, please feel free to contact me.

Diane M. Ritucci
President & Chief Executive Officer
203-678-0108
ritucci@wctrust.com.

State

BULLETIN No. 34

STATE OF CONNECTICUT
Workers' Compensation



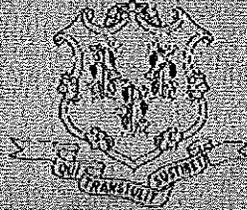
The Workers' Compensation
Act as amended in 1979
With Amendments to Vol. 176 Conn. Reports, p. 38

ISSUED BY
THE BOARD OF COMMISSIONERS
OCTOBER 1, 1979

BULLETIN No. 50

STATE OF CONNECTICUT
Workers' Compensation

THE WORKERS' COMPENSATION ACT
AS AMENDED TO JANUARY 1, 2013



ISSUED BY
THE WORKERS' COMPENSATION COMMISSION