SPONSOR: Sen. Walsh & Rep. Osienski
Sens. Hoffner, Mantzavinos; Reps. Burns, Hilovsky, K. Johnson, Lambert

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 164

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2322B. Procedures and requirements for promulgation of health-care payment system.

(a)The health-care payment system developed pursuant to this section shall be subject to the following procedures and requirements:

(1) The intent of the General Assembly in authorizing a health-care payment system ~~is~~ was to reduce overall medical expenditures for the treatment of workers' compensation-related injuries by 33% by January 31, 2017, and to reduce said expenditures by 20% by January 31, 2015.

(2) The health-care payment system shall include payment rates, instructions, guidelines, and payment guides and policies regarding application of the payment system. When completed, the payment system shall be published on the Internet at no charge to the user via a link from the Office of Workers' Compensation website at http://dia.delawareworks.com/workers-comp/, or a successor website. The payment system shall also be made available in written form at the Office of Workers' Compensation during regular business hours.

(3) The maximum allowable payment for health-care-related payments covered under this chapter shall be the lesser of the healthcare provider's actual charges or the fee set by the payment system.

a. The Workers' Compensation Oversight Panel ~~shall, by October 1, 2014, establish~~ established a fee schedule for all Delaware workers' compensation funded procedures, treatments, and services based on the Resource Based Relative Value Scale (RBRVS), Medical Severity Diagnosis Related Group (MS-DRG), Ambulatory Payment Classification (APC), or equivalent scale used by the Centers for Medicare and Medicaid Services. The RBRVS, MS-DRG, APC, or other equivalent factor shall be multiplied by a geographically-adjusted factor to ensure adequate participation by providers. The fee schedule and other savings from the healthcare payment system ~~shall result~~ resulted in a reduction of 20% in aggregate workers' compensation medical expenses by the year beginning January 31, 2015, an additional reduction

of 5% of 2014 expenses by the year beginning January 31, 2016, and an additional reduction of 8% of 2014 expenses by the year beginning January 31, 2017. The aggregate workers' compensation medical expenses required by this paragraph shall be attained through reimbursement reductions of equal percentages among hospitals, ambulatory surgical centers, and other health-care providers; therefore, by January 31, 2015, the fee schedule and other savings from the health-care payment system ~~shall reflect~~ reflected a reduction of 20% in workers' compensation medical expenses paid to hospitals, a reduction of 20% in workers' compensation medical expenses paid to ambulatory surgical centers, and a reduction of 20% in workers' compensation medical expenses paid to other health-care providers. This formula ~~shall also be~~ was also used for the 5% reduction required by January 31, 2016, and the 8% reduction required by January 31, 2017.

b. In addition, by January 31, 2017, no individual procedure in Delaware paid for through the workers' compensation system (as identified by HCPCS level 1 or level 2 code) ~~shall be~~ was reimbursed at a rate greater than 200% of that reimbursed by the federal Medicare system, provided that radiology services may be reimbursed at up to 250% of the federal Medicare reimbursement and surgery services may be reimbursed at up to 300% of the federal Medicare reimbursement.

c. On or around [January 31,2016], the ~~The~~ Workers' Compensation Oversight Panel ~~shall report~~ reported to the Governor and General Assembly ~~by January 31, 2016,~~ with respect to medical savings recognized as a result of this paragraph (3) and possible unforeseen consequences of the procedure-specific caps required by paragraphs (3)b. and (5) of this section, known to the Workers' Compensation and Oversight Panel at the time of the report, and the General Assembly ~~may,~~ at that time~~,~~ ~~reconsider~~ reconsidered the specific percentage caps required by paragraphs (3)b. and (5) of this section. The cost reductions required by paragraph (3)a. of this section shall be permanent, with the exception of inflation increases beginning in 2018 as permitted by paragraph (5) of this section~~.~~, and with the further exception of a one-time increase of 3% in aggregate workers' compensation medical expenses to correct Evaluation and Management Code reimbursements, which have fallen below the Center for Medicare & Medicaid Services rates, following the rate reductions set forth in Paragraph 3(a).

(4) An independent actuary appointed by the Secretary of Labor ~~shall verify~~ verified ~~for the Secretary~~ that the fee schedule developed by the Workers' Compensation Oversight Panel under paragraph (3) of this section complies with its requirements. If the fee schedule does not comply with its requirements, or is not completed by

October 1, 2014, the Secretary of Labor shall promulgate a fee schedule meeting the requirements of paragraph (3) of this section by regulation.

(5) ~~Beginning on~~ On January 1, 2018, the payment system ~~will be~~ was adjusted yearly based on percentage changes to the Consumer Price Index-Urban, U.S. City Average, All Items, as published by the United States Bureau of Labor Statistics. Notwithstanding the annual CPI-Urban increase permitted by this paragraph, no individual procedure in Delaware paid for through the workers' compensation system (as identified by HCPCS level 1 or level 2 code) shall be reimbursed at a rate greater than 200% of that reimbursed by the federal Medicare system, provided that radiology services may be reimbursed at up to 250% of the federal Medicare reimbursement and surgery services may be reimbursed at up to 300% of the federal Medicare reimbursement. The Workers' Compensation Oversight Panel may, without consent of the General Assembly and Governor, reduce reimbursements for any procedures it deems appropriate, but cannot increase reimbursements beyond the amounts permitted by this chapter.

SYNOPSIS

This Act provides a one-time increase of 3% in aggregate worker's compensation medical expenses to correct reimbursements for medical services coded as evaluation and management (E&M) for worker compensation cases. This is needed as the E&M reimbursement rate for Workers' Compensation cases has fallen below the reimbursement rate of the Center for Medicare & Medicaid Services rates. This is a critical need as the State of Delaware is in critical need of physicians to accept and treat worker compensation patients.

Author: Senator Walsh