

## Home Health Care Public Meeting Comments - October 2, 2012

Statute says “hourly fees shall be based upon” – this should be a floor not a ceiling and “equal to.” The statute does not require mandatory time sheet for providers.

Skilled nursing should assess what type of care is needed; there should be a Nurse Case Manager, not only an LCSW; social workers do not always have the best skills for assessing need for care, number of hours, etc.

Question as to how the Division decided that the program would be capped as per IHHSS. If there is a report from a physician, the cap could limit the care prescribed by the physician; the Division should give consideration to the distinction between IHH schedule and medical necessity.

“Based upon” should not be “equal to” and that care should not be capped at the IHHSS schedule; the State Constitution provides for injured workers to receive medical treatment; this supersedes IHSS; workers’ compensation has no annual or life-time cap; the focus should be on fees/Fee Schedule, not on service provided.

The words “based upon” gives regulators the license to go in the direction they are going.

Section H designates the type of services.

Cases with the need for 24-hour care would be very vulnerable if caps were imposed.

The employer needs to be notified, and this should be in the regulations; home health agencies are licensed by state with some having Medicare, Nursing, Physical Therapy, Occupational Therapy and Speech Therapy; an RN should do the assessment for long-term care needs; the Division should look at what is in place for Medicare.

Outpatient surgery is increasing; need to address the issue of physicians making an assessment or ordering an independent assessment.

Question if the Division is monitoring current litigation properly as there some key cases pending; the Division may want to take a “wait and see” approach until the deadline of July 1st.

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Statute says “hourly fees shall be based upon” – this should be a floor not a ceiling and does not mean “equal to.” The statute does not require mandatory time sheet for providers.

Skilled nursing should assess what type of care is needed; there should be a Nurse Case Manager, not only an LCSW; social workers do not always have the best skills for assessing need for care, number of hours, etc. A certified life care planner could also perform the needs assessment. It would be logical for physicians to assess needs.

Question as to how the Division decided that the program would be capped as per IHSS. If there is a report from a physician saying the employee needs 24 hour care, the cap could limit the care prescribed by the physician; the Division should give consideration to the distinction between IHSS schedule and medical necessity.

“Based upon” should not be “equal to” and that care should not be capped at the IHSS schedule; the State Constitution provides for injured workers to receive medical treatment; this supersedes IHSS; workers’ compensation has no annual or life-time cap; the focus should be on fees/Fee Schedule, not on service provided. Has DWC given consideration to the different standards of care in IHSS program versus workers’ compensation? How does DWC address services needed beyond what is provided in the IHSS program.

The words “based upon” gives regulators the license to go in the direction they are going, and there are caps already exist in workers’ compensation, for example the 24-visit cap on chiropractic visits and physical therapy visits.

Labor Code section h designates the type of services and Labor Code section 5307.8 refers to fees.

Cases with the need for 24-hour care would be very vulnerable if caps were imposed, for example employees with double arm amputation or with traumatic brain injury.

The employer needs to be notified to ensure that payment for services is not at risk. The regulations need to be clear regarding who has the responsibility to notify the employer. Often home health care is ordered at the time of discharge from a facility and it must be clear who notifies employer so that payment will be made. Home health agencies are licensed by the state with some having Medicare certification and some not. Home health agencies provide Nursing, Physical Therapy, Occupational Therapy and Speech Therapy. No more than 20% of the services rendered to a patient can be assistance with ADLs (activities of daily living). An RN should do the assessment for long-term care needs. Home health care agencies have requirements for medical records and timekeeping. The Division should look at what is in place for Medicare and non-Medicare home health agencies rather than create a new time sheet for providers.

Outpatient surgery is increasing; need to address the issue of home care, should require physicians to make an assessment or order an independent assessment.

Question if the Division is monitoring current litigation over the IHSS cutbacks as there are some key cases pending; the Division may want to take a “wait and see” approach until the deadline of July 1st.