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STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

PUBLIC HEARING

TUESDAY, APRIL 17, 2018
Elihu Harris State Office Building Auditorium
1515 Clay Street
Oakland, California

George Parisotto, JD
Moderator
Administrative Director

Jarvia Shu, JD
Industrial Relations Counsel

Maureen Gray
Regulations Coordinator

DIR Official Reporters: Rex Holt and Mike Shintaku

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1 (Time Noted: 10:03 AM)

2 ADMINISTRATIVE DIRECTOR PARISOTTO: Good morning and
3 thank you for coming today. My name is George Parisotto,
4 and I am the Administrative Director of the Division of
5 Workers' Compensation.

6 This is the public hearing regarding proposed
7 regulations for the physician fee schedule component of the
8 Official Medical Fee Schedule. There are copies of our
9 notice on the front desk, which is right over here to my
10 right/your left. Please make sure you sign in on our
11 sign-in sheet if you want to testify today.

12 I'd like to introduce the other staff of the Division
13 here. On my right is Maureen Gray, our Regulations
14 Coordinator, and on my left is Jarvia Shu, an attorney with
15 the Division's Legal Unit. Our Hearing Reporters today are
16 Rex Holt and Mike Shintaku.

17 When you come up to testify, please give your card to
18 Ms. Gray. All the testimony today will be taken down by our
19 hearing reporters. If you have any written comments or any
20 written testimony you want to hand in, please also give it
21 to Ms. Gray. If you wish to be notified of the final
22 adoption or subsequent changes to the proposed regulations,
23 please provide your complete name and mailing address on the
24 hearing registration attendance sheet located at the sign-in
25 table. The final notice or notice of changes to the

1 proposed regulations will be sent to everyone who requests
2 that information.

3 I will call the names for those who have checked that
4 they want to testify today, and right now we have a very
5 long list, as you might guess. I will also check to see if
6 anyone new has decided to comment. This hearing will
7 continue as long as there are people present who wish to
8 comment on the regulations, but we'll close at 5 o'clock. I
9 doubt we will get that far. If the hearing continues into
10 the lunch hour -- again, I don't think we'll get there -- we
11 will take at least an hour's break for lunch.

12 Written comments can be given to Maureen if you have
13 them or will be accepted by fax, email, or delivery up until
14 5 o'clock today at the Division's office, and they are
15 located on the 18th floor of this building on the other side
16 of the lobby.

17 The purpose of this hearing is to receive comments on
18 the proposed amendments to the regulations, and we welcome
19 any comments you may have about them. We will not question,
20 respond to, or discuss anyone's comments, although we may
21 ask for clarification or ask that you elaborate further on
22 any points that you may be presenting.

23 All your comments, both given here today and those
24 submitted in writing, will be considered in determining what
25 revisions we may make to the regulations. Please restrict

1 the comments or the subject of your comments to the
2 regulations and any suggestions you have for changing the
3 proposed regulations. Normally I ask that you would limit
4 your comments to three minutes in length, but I do note that
5 on our Web site it said that comments will be limited to
6 ten minutes; and if you are going to make your comments and
7 they will be ten minutes, I do applaud your efforts.

8 Reminder, please make sure you have signed in, that
9 you wish to speak, and that you checked the box indicating
10 that. Again, when you come up to give your testimony,
11 please give Maureen your business card, if you have one, so
12 that we can get the correct spelling of your name in the
13 transcript. Please speak into the microphone, which is at
14 the podium right in front of me on my right; and before
15 starting your testimony, please identify yourself for the
16 record.

17 So our first speaker today will be Thomas Novelli.

18 -o0o-

19 THOMAS NOVELLI

20 -o0o-

21 THOMAS NOVELLI: Good morning. My name is Thomas
22 Novelli with One Call. We're the leading healthcare
23 management services in the workers' compensation industry.
24 Our mission is to ensure that injured workers receive timely
25 and efficient access to the highest quality providers as

1 possible. In California alone, we have worked with over
2 350,000 patients in 2017 alone. In addition, we employ more
3 than 300 people at One Call in California to help us achieve
4 that mission. We appreciate, and generally support, DWC's
5 efforts to ensure payment accuracy within the workers'
6 compensation programs, specifically by transitioning to a
7 GPCI-based model, away from the state geographic factors.
8 This is something that Medicare has done and with the same
9 mission in mind. And really ensuring that providers have
10 timely access and are paid accurately I think is something
11 that's agreed that we generally support and all stakeholders
12 support.

13 Just given the complexity and some of the challenging
14 administrative considerations with this, we would just urge
15 DWC to proceed cautiously and occasionally check in with
16 providers, especially in rural areas that may be subject to
17 steeper payment rate cuts than others and the other MSAs.
18 We've seen, over times, in Medicare that sometimes these
19 shocks can be a little more, I think, significant than
20 people give consideration to. So I would just urge,
21 throughout this process and as the transition takes place,
22 that rural providers especially are getting checked in on to
23 make sure that there is no access issues for patients. As
24 you know or well aware, in many cases there are not many
25 providers in some of these rural areas and states. So we

1 would just urge DWC to check in occasionally as the
2 transition takes place. Thank you.

3 ADMINISTRATIVE DIRECTOR PARISOTTO: Thank you very
4 much.

5 And that's the only person we have on our list who
6 indicated they wanted to testify. So does anyone here --
7 anyone else like to testify today?

8 -o0o-

9 DON SCHINSKE

10 -o0o-

11 DON SCHINSKE: Thank you. I'm Don Schinske. I'm here
12 on behalf of the Western Occupational Environmental Medical
13 Association. We're the regional component of ACOEM. Most
14 of our docs are board-certified doc/med physicians who serve
15 as primary treaters, as UR docs, QMEs, medical directors,
16 and so on, in the system.

17 I guess we would just like to make the modest point
18 that we were, for a long time, champions of the conversion
19 to RBRVS years before it actually happened. We appreciate
20 the underlying rationale behind it and, of course,
21 appreciate it for its ability to be updated regularly based
22 on the federal model.

23 I guess our one concern is, as the previous gentleman
24 noted, there will be some minor areas -- small areas that
25 experience a decrease in reimbursement here. It wasn't

1 clear to us on the Statement of Reasons whether the effects
2 on access had been analyzed or looked at. After all, the
3 rationale for RBRVS is it's obviously based on the cost of
4 operating. That said, there is never going to be a
5 challenge with access in San Francisco; whereas, when you
6 get out into the rural areas, go up to Alturas or
7 Susanville, you may be looking at service being provided by
8 a family doctor or general practitioner who receives work
9 comp patients as a convenience to their existing patients.
10 You would hate to have any of them just say, you know --
11 given the existing reporting challenges and paperwork
12 associated with handling work comp, you would hate to see
13 them drop it now just because of a five or ten percent
14 reduction. We would hope that, as DWC looks at these types
15 of changes to the fee schedule, that access is a component
16 of that analysis. Thanks.

17 ADMINISTRATIVE DIRECTOR PARISOTTO: Thank you. Is
18 there anyone else who wishes to testify today?

19 -o0o-

20 STEVE CATTOLICA

21 -o0o-

22 STEVE CATTOLICA: Good morning. My name is Steve
23 Cattolica. I represent a number of provider groups: The
24 California Society of Industrial Medicine and Surgery,
25 California Neurology Society, California Society of Physical

1 Medicine and Rehabilitation, the Independent Physical
2 Therapists of California, as well as Interpreting
3 Association of California.

4 We applaud the policy that recognizes that the cost of
5 doing business in urban areas is greater than certainly that
6 which may be in rural areas. We see a number of issues that
7 will arise from implementation of that policy with respect
8 to the Official Medical Fee Schedule. Mr. Schinske noted
9 one or two, and I'd like to amplify on at least the couple
10 that we know and have some history about.

11 You'll recall in 2006, when the Division sought their
12 way clear to raise the reimbursement when physician
13 dispensing was curtailed, that it took months and the
14 DWC Newsline to prompt the insurance carriers and the payers
15 to comply with the raised, or the higher, reimbursement. We
16 suggest that the Division ought to look at dusting off that
17 DWC Newsline and have it ready, not just for those
18 physicians, but we believe that the policy should be
19 extended. And I realize I'm going out of bounds here, but
20 I'm compelled to say that, if the cost of doing business for
21 a physician is greater in urban areas, as Medicare
22 recognizes, it's also greater for physical therapists. It's
23 also greater for interpreters. It's also greater for a
24 number of people who are integral to the system but are not
25 affected directly by the adjustment that you're about to

1 make.

2 Also, I think it's incumbent on the Division to ramp up
3 its access study, that rather than waiting for the annual
4 study to be done, which by and large has always been more of
5 a proximity study than actual access or availability study,
6 that WCIS be employed to watch trends coming from rural
7 areas because you'll see, we predict, a drop-off of bills
8 because fewer doctors are going to be willing to service
9 people for less money than they already are getting and
10 having to fight so hard to get reimbursed. In fact, we
11 would extend that even to the medical groups who may have
12 multiple locations. So it won't be necessarily just an
13 individual physician -- Dr. Smith or Dr. Welby -- but the
14 larger entities that we all know and recognize, of which our
15 initial speaker was one.

16 The policy that you're following does not need -- if
17 you were to extend it, we believe that -- I'll close with
18 this.

19 We don't believe that you need any new authority. You
20 don't need statute. You need to just simply recognize -- or
21 excuse me -- exercise your existing capabilities under the
22 regulations to change the fee schedule, and we would suggest
23 that that get underway as quickly as possible. Thank you
24 very much.

25 ADMINISTRATIVE DIRECTOR PARISOTTO: Thank you.

1 Last call for anyone who would like to testify today.

2 Well, if no one else will testify, this hearing will
3 be closed. The opportunity to file written comments will
4 stay open until 5 o'clock this afternoon. These comments
5 should be delivered up to the Division's office which,
6 again, is on the 18th floor of this building. I would like
7 to thank you for your attendance today and the input you
8 have given us and thank you for our staff for being here
9 this morning. This hearing is now closed. 10:17.

10 (The proceedings adjourned at 10:16 AM.)

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REPORTER'S CERTIFICATE

I, the undersigned Official Hearing Reporter for the State of California, Department of Industrial Relations, Division of Workers' Compensation, hereby certify that the foregoing matter is a full, true, and correct transcript of the proceedings taken by me in shorthand, and with the aid of audio backup recording, on the date and in the matter described on the first page thereof.

Dated: April 20, 2018

/s/ Rex Holt

Oakland, California

Rex Holt

Official Hearing Reporter