

MONTANA MEDICAL ASSOCIATION

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August 31, 2010

Tuesday

Montana Economic Affairs Interim Committee Chairman
and Interim Committee Members

P.O. Box 201706

Helena, MT 59620-1706

Re: Labor-Management Advisory Council (LMAC) proposed legislative package –
physician response to **Section 28. 39-71-704(2)(b)** – **proposed provider rate cuts
contained on pages 73 and 74 draft bill.**

Dear Mr. Chairman and Committee Members:

The Montana Medical Association (MMA) has received comments from our member physicians following the August 19, 2010 Economic Affairs Interim Committee (EAIC) meeting regarding the provider rate cuts proposed in the Labor Management Advisory Council (LMAC) bill, which was approved by the EAIC at that meeting. The following is a brief synopsis of the responses that the MMA received from four (4) practices representing 13 physicians in the specialties of neurosurgery and orthopaedic surgery:

- If the current statute is changed as proposed, all the physician providers stated that their practices will either no longer accept workers compensation patients or they will reduce the number of workers compensation patients they will treat.
- The following are the concerns cited by the physicians related to language on page 73 of the proposed bill which, if passed would state “**the department may not set the rate for medical services at a rate greater than 65% above Medicare’s reimbursement rates for the same services**”:
 - The state of Montana should not correlate its workers compensation rates to the federally determined Medicare fee schedule or Medicare provider rates, because the Medicare system is facing significant reductions in the current fee schedule. The anticipated Medicare fee schedule reduction would result in Montana workers compensation reimbursement rates being reduced even lower than what is currently anticipated and will force even more providers out of the Workers Compensation System.
 - Physician practices already find it very difficult to recruit/retain quality healthcare providers and decreasing reimbursement will only compound

this problem. Not having physicians who can afford to treat workers compensation patients will inevitably create an access to care issue for injured workers.

- Claims for surgical services are already reimbursed at 5% less than the workers compensation fee schedule, due to the payor system, and the anticipated reduction in rates will reduce that rate even further.
 - One neurosurgeon stated he will limit his practice of workers compensation patients to uncomplicated spinal surgeries, i.e., one/two level disc procedures and will discontinue management of chronic conditions, independent medical examinations, second opinions, work restrictions or maximum medical independence opinions.
 - Two practices responded that they will reduce staff if this proposal is enacted.
- The LMAC proposal would set the maximum workers compensation reimbursement rates at much lower than what private insurance companies currently pay for the same care. The Workers Compensation reimbursement rates should not be set below private payor rates due to increased administrative costs and burdens born by the physician providers inherent to workers compensation claims. The administrative burdens which were also cited by the responding physicians as follows:
 - Job analysis requests are sent to the physician to review and determine if the patient can return to his/her current job. In some situations the physician may be requested to review multiple job analyses for a single patient to determine what, if any, job they can perform.
 - Work status forms are required to be completed at each office visit.
 - Medical records, follow-up informational requests and questions for each patient are frequently solicited from multiple sources including the patient's nurse case manager and the insurance adjuster.
 - Paper billing requirement due to the exemption to electronic billing requirements for workers compensation.
 - One practice cited more than \$91,000 for 2009 alone in unreimbursed employee and physician costs related to workers compensation administrative and consultative work.

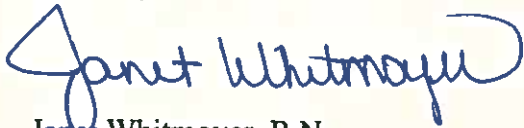
The administrative burdens and costs to treating physicians will also increase with the implementation of Utilization and Treatment Guidelines, which is required by the LMAC bill draft language.

In summary, the MMA can state unequivocally that all of the responses it received from physicians regarding the LMAC bill draft make clear that the proposed rate cuts, if put in place, will cause physicians to leave the workers compensation system. Additionally it will inhibit access by workers compensation patients to physician providers, which will inevitably result in delayed treatment and inhibit the ability of injured workers to be able to return to work. Physician practices have also indicated that enacting proposed rate cuts will likely cause them to lay off support staff, resulting in a general reduction of workforce.

The physician responses upon which the summary provided above is based can be obtained by request from the EAIC to the MMA office. The MMA expects to receive additional responses prior to the 2011 legislative session that are similar in nature to those summarized above as more physicians become aware of the proposed rate cuts.

Based upon the responses received from physician providers to date, the MMA requests that the EAIC vote, at its upcoming meeting, to remove Section 28. 39-71-704(2)(b) from the draft LMAC proposal and to request a separate bill draft out of the EAIC to address the provider rate cuts and changes proposed in this section, which can be developed from a consensus between the Department of Labor and Industry and provider group representatives prior to the 2011 legislative session.

Sincerely,

A handwritten signature in blue ink that reads "Janet Whitmoyer". The signature is written in a cursive style with a large initial "J".

Janet Whitmoyer, R.N.
Coding and Reimbursement Specialist
Montana Medical Association