

## ISSUES FOR CONSIDERATION AT APRIL 12, 2013 WORKERS COMPENSATION TASK FORCE MEETING

At our meeting earlier this week, there was a request that I try to put into writing some of the proposals we have discussed so that members could have a clear understanding prior to our next meeting of issues they may be asked to vote on. This list is my effort to do so. This list does not include proposals that we are waiting to receive in the very near future from the Health Care Advisory Panel and Data Collection Committee, nor does it include any recommendations regarding the existing medical fee schedule. The draft recommendation in italics is the subject of ongoing discussion between some members of the task force, and although I am hopeful that it will be ready for discussion at our April 12 meeting, it may need to wait until April 19 if those discussions are not complete.

- Change Delaware statute to require that workplace safety inspections include compliance by employers with their obligation to complete Modified Duty Availability forms for any workers who have had compensable injuries since the employer's last inspection.
- *Change Delaware statute to permit payment of total disability benefits to injured workers for a period of 90 days notwithstanding their performance of light duty in the workplace. This recommendation is subject to provisions to be drafted by task force members designed to ensure that the employee's return to the workplace does not prejudice his or her workers compensation claim.*
- Change Delaware statute to require that once an injury is deemed a compensable "lost time" case and an Agreement as to Compensation is entered into by the carrier/employer and the injured worker, the insurance carrier shall send a Modified Duty Availability Report to the employer for completion. The trigger for the Modified Duty Report would no longer be the Physician's Report of Workers' Compensation Injury. Rather, the Agreement becomes the trigger and the responsibility for sending the form to the employer is placed on the carrier.
- Change Delaware statute to permit increases for all health care providers based solely on CPI-U, rather than CPI-U Medical.
- Recommend analysis by Health Care Advisory Panel of first six months of resulting cost data for hospitals after effective date of 19 Del.C. § 2322B(8), to determine if reimbursements are the equivalent of reimbursements produced by use of the payment system created by 19 Del.C. §§ 2322B(1) through 2322B(4). To the extent that they are different, amendment of Section 2322B(8) is recommended to produce equivalent reimbursements for equivalent services.
- Change 19 Del.C. § 2322B(9) to replace existing statutory formula for reimbursement of ambulatory surgical centers with a fee schedule based reimbursement schedule calculated in a manner similar to that created by Sections 2322B(1) through 2322B(4).
- Change 18 Del.C. § 2610 to require appointment by Insurance Department of an attorney to represent ratepayers throughout the rate-setting process, with authority for the appointed attorney to retain an actuarial expert and statutory provisions for the attorney to require available data and other factual information from the applicant. Cost would be paid by the applicant.