



VIA EMAIL

May 9, 2014

To: Tonia Muncey

From: Tim Wisecarver

Subject: Workers Compensation Draft Task Force Report

Based on an initial review of the draft report which we received yesterday evening, I offer the following comments.

In Section I: Heightened Oversight of Insurance Carriers, the language in the last sentence before the first bold-faced passage suggests that collection of information on the medical cost control practices of individual workers compensation carriers did not occur. However, collection of individual carrier medical experience data did take place. The DCRB submitted a report of such experience for the nine largest insurer groups in Delaware on August 1, 2013. At the request of the Workers Compensation Task Force, the DCRB supplemented that information with a report of experience for the 78 companies within those nine groups that wrote any Delaware workers compensation insurance business from 2001 through 2010 inclusive. Further, the DCRB is aware, by virtue of its attendance at Data Collection Committee meetings, that the Delaware Department of Insurance did examine selected companies to ascertain their compliance with prevailing provisions of Delaware's health care payment system, and we believe that those examinations confirmed the carriers' practices and procedures in all material respects.

In Section II: Stricter Controls on Medical Costs, the DCRB's calculation of a 51% medical cost reduction cited here was made in response to a question that asked what reduction in medical costs would have caused the DCRB to recommend a 10% cut in "loss cost ratio" last year. We understand the reference to "loss costs ratio" to mean the loss costs used by carriers to develop their competitive rates in the voluntary market. These are distinct from both (a) residual market rates and (b) voluntary market rates. I expect that the information provided by the actuary that provided services to the Ratepayer

Advocate was obtained by way of the same or a similar inquiry, and I think that both responses should be described as pertaining to loss costs and as having been obtained in response to a specific question posed to each of the cited sources.

In terms of the content of the report, we think that it might be helpful for the Governor and the General Assembly to be made aware of topics that were not more fully developed by the Task Force in its available time. For example, the matter of employer participation in selecting medical care providers was on the Task Force agendas for March, April and May but was never opened for consideration due to other business which took priority over that subject. There are also other subjects that have been encountered in the course of previous Task Force activity that could have implications for what the DCRB continues to believe is a key cost driver in Delaware – the increasing duration of workers compensation claims. Among these are (a) certain aspects of the utilization review process (wherein the standards for decisions made during different stages of adjudication differ), (b) features of the existing mediation process that seem to result in limited use of and success for that system, and (c) possible opportunities to improve the efficiencies of the hearing procedures used to decide components of workers compensation settlements (temporary partial disability, impairment percentages and scarring) in Delaware. Understanding that the General Assembly's time frame for consideration of these additional topics during the current session will be short, that time frame does extend somewhat beyond the deadline for issuance of the Task Force report. Knowing about possible additional areas of potential changes to the Delaware workers compensation system might assist the General Assembly in its consideration of this important aspect of public policy debate.