

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
OF THE STATE OF OREGON**

PUBLIC RULEMAKING HEARING

In the Matter of the Amendment of: <ul style="list-style-type: none"> • OAR 436-009, Oregon Medical Fee and Payment • OAR 436-010, Medical Services • OAR 436-015, Managed Care Organizations))))	TRANSCRIPT OF TESTIMONY
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The proposed amendment to the rules was announced in the Secretary of State’s *Oregon Bulletin* dated February 2021. On Feb. 17, 2021, a public rulemaking hearing was held as announced at 2 p.m. via teleconference from the Labor & Industries Building, 350 Winter Street NE, Salem, Oregon. Fred Bruyns, Workers’ Compensation Division, was the hearing officer. The record will be held open for written comment through Feb. 22, 2021.

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TRANSCRIPT OF PROCEEDINGS

Fred Bruyns:

Good afternoon and welcome. This is a public rulemaking hearing.

The filing caption for this rulemaking is: “Workers’ compensation medical fees and payments, medical services, and managed care organizations.”

My name is Fred Bruyns, and I’ll be the presiding officer for the hearing.

The time is now 2:01 p.m. on Wednesday, Feb. 17, 2021. We are conducting this hearing by telephone from the Labor & Industries Building, 350 Winter St. NE, in Salem, Oregon. We are making an audio recording of today’s hearing.

The Workers’ Compensation Division of the Department of Consumer and Business Services proposes to amend chapter 436 of the Oregon Administrative Rules, specifically:

- OAR 436-009, Oregon Medical Fee and Payment;
- OAR 436-010, Medical Services;
- OAR 436-015, Managed Care Organizations.

The department has:

- Summarized the proposed rule changes and prepared an estimate of fiscal and economic impacts in the notice of proposed rulemaking filed with the Oregon Secretary of State on Jan. 28, 2021;
- Distributed the notice to its postal and electronic mailing lists;
- Notified Oregon legislators as required by ORS chapter 183; and
- Posted public notice and the proposed rules to its website.

The Oregon Secretary of State:

- Published the hearing notice in its *Oregon Bulletin* dated Feb. 1, 2021.

This hearing gives the public the opportunity to provide comment about the proposed rules. In addition, the division will accept written comment through and including Feb. 22, 2021, and will make no decisions until all of the testimony is considered.

I will bring to your attention some testimony from the Workers' Compensation Division marked "Exhibit 1." This testimony from Medical Policy Analyst Juerg Kunz is dated Feb. 1, 2021. The subject is "Fee schedule for anesthesia services." I will read this testimony verbatim into the record:

The workers' compensation division (WCD) is proposing to raise the maximum allowable payment amounts for physician services, including anesthesia services, by an average of two percent, excluding amounts for office visits, which WCD proposes to increase by ten percent. The maximum allowable payment amounts for most physician services can be found in the physician fee schedule table (Appendix B). However, the maximum allowable payment amounts for anesthesia services are not listed in Appendix B. Rather, the maximum allowable payment amounts for anesthesia codes are determined by multiplying the anesthesia value by the conversion factor listed in OAR 436-009-0040(2)(f).

WCD inadvertently did not make a change to the anesthesia conversion factor, hence the rules as proposed do not afford a two percent increase in the maximum allowable payment amounts for anesthesia services.

WCD intends to correct this error by increasing the anesthesia conversion factor listed in OAR 436-009-0040(2)(f) from \$59.74 to \$60.93 when filing notice of the permanent OAR 436-009 with the secretary of state.

We are ready to receive public testimony. Lisa Anne, is this a good time for you?

Lisa Anne Bickford:

Yes, I am here, and thanks for including me and thank you for holding the hearing. This is Lisa Anne Bickford with Coventry and Mitchell Government Relations. And, I just wanted to offer short testimony in support of the state's proposed rules. In particular, we

appreciate the state's inclusion of the expansion of telehealth services in recognition of providers that are basically scrambling to provide care in any way that they can during the pandemic. So, we appreciate that the division has expanded and removed the barriers to have limitations subject only to the appendix. So, thank you very much for that, and thank you to the division.

Fred Bruyns:

Thank you Lisa Anne, for your testimony.

Is there anyone else who would like to testify at this time?

Hearing no one, in a moment I will recess the hearing, but we will resume for additional testimony if anyone wishes to testify before 3 p.m.

Again, the record remains open for written testimony through and including Feb. 22, 2021. You may submit testimony in any written form. I encourage you to submit your testimony by email or as attachments to email. However, you may also use US mail. I will acknowledge all testimony received.

This hearing is recessed at 2:05 p.m.

Okay, this hearing is resumed at 2:58 p.m. Is there anyone else who would like to testify today? Hearing no one, the time is still 2:58 p.m.

Thank you for coming. This hearing is adjourned.

Transcribed from a digital audio recording by Fred Bruyns, Feb. 17, 2021.