Exhibit "4"

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 OAR: 436-009, Oregon Medical Fee and Payment 436-010, Medical Services 436-015, Managed Care Organizations	)))))	TRANSCRIPT OF TESTIMONY

The proposed amendment to the rules was announced in the Secretary of State's Oregon Bulletin dated Feb. 1, 2023. On Feb. 15, 2023, a public rulemaking hearing was held as announced at 1 p.m. in Room F and via teleconference from the Labor & Industries Building, 350 Winter Street NE, Salem, Oregon. Fred Bruyns from the Workers' Compensation Division, was the hearing officer. The record will be held open for written comment through Feb. 21, 2023.

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TRANSCRIPT OF PROCEEDINGS

Fred Bruyns:

Good morning and welcome. This is a public rulemaking hearing. My name is Fred Bruyns, and I'll be the presiding officer for the hearing.

The time is now 1 p.m. on Wednesday, Feb. 15, 2023. We are conducting this hearing from Conference Room F in the Labor & Industries Building in Salem, Oregon. However, we are also doing so virtually, by video and telephone conferencing. We are making an audio recording of the hearing and a video recording.

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, and
- OAR 436-015, Managed Care Organizations.

The department has: summarized the proposed rule changes and prepared estimates of fiscal and economic impacts in the notice of proposed rulemaking filed with the Oregon

Secretary of State; published rulemaking 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. I'll add that we also have some testimony posted to our website, so I would encourage anyone who is interested to go and have a look at that.

The Oregon Secretary of State published the hearing notice in its *Oregon Bulletin* dated Feb. 1, 2022.

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. 21, 2023, and will make no decisions until all of the testimony is considered.

We are ready to receive public testimony. I going to ask Scott Colling, with Cascade Health to go ahead and testify.

Scott Colling, PT:

Good afternoon. My name is Scott Colling, and I am a physical therapist in Eugene, Oregon, who treats injured workers for Cascade Health Physical and Occupational Therapy. The purpose of my attendance at this hearing today is to bring to light the real value of rehabilitation for treating injured workers versus the CPT code reimbursement for workers' compensation.

My clinic and my co-workers provide many occupational services for local businesses and for injured workers. Our clinic provides pre-employment testing, fit for duty exams, ergonomic training, PCE's, work conditioning, as well as treating injured workers. As you are most likely aware the vast majority of work-related injuries are musculoskeletal in nature and thus are significantly helped by the therapies we provide. Providing therapies helps an injured worker regain function and contributes to a quicker return to their place of work, or helps the claim move on in a more expedited manner. Both of these benefits contribute to reducing overall costs of workers, their injuries, and in turn helps businesses, workers, and insurance companies alike.

Over the past 12 to 13 years the most commonly charged CPT codes for Workers' Compensation have remained relatively flat and, in some cases, decreased in the amount of reimbursement. Moreover, most if not all of the frequently used codes for treatment, such as therapeutic exercise, manual therapy, ultrasound, electrical stim, iontophoresis, and manual traction have decreased in reimbursement during this time. For example, in 2010, therapeutic exercise, one of the most commonly used for both physical and occupational therapy, had a reimbursement value of $53.12. As of Jan. 1, 2023, that same code for reimbursement is now $51.70, a decrease of reimbursement of 3%.

The table below provides an illustration regarding this trend, and I'll summarize. Manual therapy has decreased in reimbursement by 8 percent. Iontophoresis decreased by 28 percent. Manual traction, a decrease in 9 percent. And, ultrasound and e-stim a decrease of 15 percent.

Simultaneously during the same 13-year period, the cost of doing business in our clinic, as well providing rehabilitation services in general, have rose substantially. As with other sectors of our economy, this inflation increase has significantly spiked post-COVID pandemic. The conservative estimate of our wage cost increases are 39 to 65 percent over that same period. And, this does not factor in the benefit cost increases or additional items like clinic supplies, vendor related charges or durable medical equipment, which have all increased as well by similar percentages.

In April 2023, there is a proposed increase of approximately 1.2 to 1.5 percent per CPT code reimbursement for the treatments listed above. While this may help offset some of the costs associated with treating injured workers, we feel this amount is contrary to an equitable increase. Therefore, we are proposing an increase of 18 percent, which is in alignment with the Physician Evaluation and Management, or E&M office code fees suggested earlier this year. I realize that this initial increase for reimbursement values is substantial. However, when dividing this over the past 13 years it equates to approximately 1.3% increase per year during that time. The suggested increase is also under half of the increase of inflation during that same 13-year period.

The current increasing gap between the cost to treat and the flat or decreasing reimbursement rate for therapy CPT codes commonly used for treating injured workers is unsustainable. The rising cost of providing services to our clients, along with overhead, places increased pressure on a therapist's ability to remain viable in this market. Without a realistic increase in value for these codes, therapists will continue to find it increasingly difficult to treat injured workers effectively, which in turn would cause substantial increases in claim costs for injuries. These higher costs will inevitably have to be absorbed by insurance companies, workers, and businesses.

I want to thank you for giving me the opportunity to speak on behalf of my profession.

Fred Bruyns:

Thank you very much, Scott. I appreciate it. Is there anyone else who would like to testify at this time?

Richard Abraham, MD:

Fred, can you hear me?

Fred Bruyns:

Yes, I can. Are you Dr. Abraham?

Richard Abraham, MD:

It's Dr. Abraham. Yeah, it's Dr. Abraham.

Fred Bruyns:

Go ahead, doctor.

Richard Abraham, MD:

I didn't know if there is anybody else who is scheduled to testify.

Fred Bruyns:

Not at this time, so go ahead.

Richard Abraham, MD:

Okay, so you know I appreciate the work the division did on the codes, and I think that I would just like to make a couple of comments. So, as I look at everything, and I apologize, I've got laryngitis now. I've lost my voice a bit. Hopefully, everybody can hear me okay. Can you hear me okay?

Fred Bruyns:

Yes, we can. It's coming through quite clearly. Thank you, doctor.

Richard Abraham, MD:

Okay, thank you. So, I was looking at our commercial contracts that we have in place, that I would use for comparative purposes. And, I think that with what was done in the E&M codes, even though I understand that it's a substantial increase over one year, it kind of gets us to where we probably should have been at least two or three years ago. And, so whether that happens in one year, over two years, I think what's been done has been great. But, I think that, and honestly, [audio unclear] to catch up. That said, I think that the discrepancies I see that I'm kind of surprised a bit are the surgical codes. And, you know, I want to be a little careful here, but I feel like, to me, when I look at all of our other contracts, the surgical codes and the E&M codes are all paid at the same rate. We don't have any contracts, at least that I've ever seen where they're paid differently. So, you know, if we were to take money from somewhere, perhaps from the surgical code increase – and we use both codes in our practice. We use both surgical codes and E&M codes, and particularly in our emergency medicine practice seeing injured workers. But, to me, if you were to pull some money from somewhere, perhaps it should come from the increase in surgical codes. That's just a suggestion, you know, trying to hear both sides of the story in talking to my contacts at SAIF, …. [connection lost]

Fred Bruyns:

Is that it Dr. Abraham? Are you still there, doctor? We may have lost the connection. Can anyone else hear me? Is anyone else on to make sure we haven't lost all connections. [Several attendees replied that they could hear Fred.] Okay, well hopefully Dr. Abraham will either be back, or that concluded his testimony, but I suspect we were cut off. Is there anyone else who would like to testify at this time? Sounded like someone was coming in. Okay, perhaps not.

Richard Abraham, MD:

Can you hear me now?

Fred Bruyns:

Yes I can, Doctor. Go ahead. You were cut off somehow.

Richard Abraham, MD:

Okay, so our building here does not have the best cell service. So, when we just – can you hear me now?

Fred Bruyns:

Yes we can. Go ahead.

Richard Abraham, MD:

Okay, where did I finish off, before I was talking to myself?

Fred Bruyns:

You just mentioned something about contacting SAIF Corporation – your contacts at SAIF.

Richard Abraham, MD:

Yeah, just my contacts at SAIF and employers, I know that are [audio unclear] I know there's concern that the rates are going up so much in one year. And, I would say that I understand that and empathize with that, but had we had annual escalators in place, like most – at least like all of our commercial contracts do, we wouldn't have ever been put in this situation. And, I would suggest that going forward honestly, because this is a huge process to go every year and very time consuming with people that are very busy doing their jobs in a day. And, I think having an annual escalator of two and a half or three percent every year would make sense. That said, I think that – I can't remember if this recorded or not earlier, but I think the big discrepancy I see in our contracts is the difference between the surgical codes and the E&M codes. And, in all of our other contracts, E&M and the surgical codes are paid the same rate. And, our practice does –

uses both codes, both our emergency medicine practice and our occ health practices use both surgical codes and E&M codes. But, you know, with these proposed increases the surgical codes are going to be, I think, over $100, which is - it would just be pretty substantial. I don't want to get any scalpels thrown at me, but I feel like that is something to possibly look at as far as redistributing some of the dollars, or taking some dollars out to kind of save some money overall, as far as the overall annual impacts for this year on insurers and employers. So, I just think that – the other contracts, the commercial contracts we have also [audio unclear] nurse prac [audio unclear] pay mid-level the same as they pay the physicians, because of the pay parity. We don't see any where there's a 15 percent reduction either. So, that's the other area that's different, is normally the surgical codes and E&M codes are the same conversion factor, and the mid-levels are paid at the same level as physicians are paid, with the pay parity laws. So, that's just something else to consider, but I don't know what the spend is annually, between surgical codes and E&M codes. I'm assuming it's more skewed to E&M codes, but I'm not sure. Does anybody have that data, in terms of how much – what the dollar amount is of the proposed 14 percent increase for surgical codes, versus 18 percent in E&M codes – what the actual dollar amount, overall dollar amount be?

Fred Bruyns:

We did estimate the dollar amounts, and it's on the notice of proposed rulemaking, the dollar impacts of surgery and E&M changes. Go ahead doctor.

Richard Abraham, MD:

Are the E&M codes higher? I'm sorry, I don't have that at my fingertips. And, I probably didn't notice it.

Don Gallogly (Information Technology & Research):

Yes, E&M codes are higher. I don't have the dollar figures in front of me. This is Don Gallogly. I'm a research analyst on medical benefits. E&M codes indeed are higher by – they're about double generally, but I don't have the actual dollars in front of me.

Richard Abraham, MD:

Okay, no worries.

Fred Bruyns:

Doctor, there's a $6.22 million impact of the E&M – estimated impact of the E&M changes, and a $2.46 million per year impact of the major surgery category increase.

Richard Abraham, MD:

Okay, yes, that's helpful. But, I think this proposed increase would take surgical codes over $100, which is pretty unheard of. Just trying to look at all sides here. And, so if we were to, you know, rob Peter to pay Paul so to speak, that might be the place to consider doing it. Anyway, thanks for listening. I thought I'd at least say something, so that we know in hearing all sides, and try to consider where everybody fits and try to be, you know, to sit in someone else's chair in looking at this and not just from my side. And, but I do feel like, at least on the E&M side, it does catch up to where we should be, not including kind of a differential over the last, you know, five or ten years that's been lost. But, I know it is a significant impact, and I recognize that.

Fred Bruyns:

Thank you very much, Dr. Abraham for all of your input.

Richard Abraham, MD:

My pleasure.

Fred Bruyns:

Thank you. 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 2 p.m.

Again, the record remains open for written testimony through and including Feb. 21. 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 1:17 p.m.

Okay, this is Fred again. I'm checking back with you to see if there is anyone who would like to testify at this time. Hearing no one, the time is 1:59 p.m.

Thank you for coming. This hearing is adjourned. Good day.

Transcribed from a digital audio recording by Fred Bruyns, Feb. 15, 2023.