

February 15, 2023

FRED BRUYNS, RULES COORDINATOR  
WORKERS' COMPENSATION DIVISION  
PO BOX 14480  
SALEM, OR 97309

Re: Proposed permanent rules for medical fee schedules, payments, and related procedures under OAR 436-009

Dear Fred,

SAIF Corporation (SAIF) has considered the Workers' Compensation Division's (WCD) proposed permanent amendments to OAR 436-009. SAIF, as always, appreciates the opportunity to provide input on the proposed rule changes and urges WCD to reassess the projected fiscal impact of the proposed changes.

WCD's proposed permanent rule increases the physician fee schedule for the maximum payment for Evaluation and Management (E&M) office codes, major surgery, chiropractic manipulation, medical arbiter exams, and durable medical equipment. SAIF acknowledges the importance of reviewing the fee schedule on an annual basis and adjusting payments to maintain consistency with other fee schedules.

As part of SAIF's review to determine the potential impact of the proposed changes, an initial fiscal review showed an estimated increase in medical fees that was not proportionate to the estimated fiscal impact provided by WCD. For example, SAIF estimated that an 18 percent increase to the E&M codes alone results in an additional \$4.3 million per year in medical fee expenses. With approximately 50 percent of the market share, SAIF's estimated fiscal impact is at odds with WCD's estimated fiscal impact of \$6.22 million per year for the same increase to the E&M codes. Additionally, WCD's initial expected fiscal impact estimated that every 1 percent increase in the E&M codes would increase the medical fee expenses by \$400,331. See WCD's October 18, 2022 Issues Document. For E&M office visits alone, the expected fiscal impact would be approximately \$7.2 million (18 percent increase x \$400,331) per year. Based on the different estimated fiscal impacts provided by WCD and compared to SAIF's analysis, it is unclear how WCD arrived at its estimated system-wide impact for the proposed increases. SAIF would appreciate further clarification from WCD as the different estimates are significant.

SAIF has also reviewed the proposed increases and remains unsure as to the methodology used by WCD to arrive at the specific fee increases. Additional explanation would allow for meaningful feedback from SAIF regarding the proposed changes. SAIF requests that WCD provide further guidance regarding its methodology prior to adopting permanent rules, which allows stakeholders to offer constructive feedback.

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In addition, WCD's January 24, 2023 notice addresses the cost of compliance effect on small businesses, focusing on insurers, self-insured employers and health care providers. The notice does not address the impact on small businesses in general whose insurance costs may be affected by the proposed rule changes. SAIF requests that WCD's impact analysis consider the cost of compliance for all small businesses as part of its analysis.

As always, SAIF appreciates WCD's engagement and commitment to the rulemaking process as well as its collaborative approach.

Sincerely,

/s/ Elaine Schooler  
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