November 5, 2013

To: Members, Worker's Compensation Advisory Council (WCAC)
From: Health Care Liaisons to the WCAC
Subject: Health Care Liaison Proposal

EXECUTIVE SUMMARY

The Wisconsin Hospital Association, Wisconsin Medical Society, Wisconsin Chiropractic Association, and the Wisconsin Physical Therapy Association are pleased to present this proposal, which addresses the specific concerns identified by the WCAC, legislators, and others with an interest in the Wisconsin Worker's Compensation system. Our proposal provides both immediate cost savings within the program and identifies areas for better controlling future cost growth.

In Wisconsin, we enjoy a model system. Here, injured workers have access to and receive high-value health care and return to work faster and more satisfied than in any other state. This model system exists even as Worker's Compensation premiums are stable and costly litigation is rare. While some data indicate higher medical prices compared to certain other states, that narrow focus ignores the big picture. When prices are considered with Wisconsin's low utilization rates, efficient and high quality treatment, and excellent outcomes including return-to-work, Wisconsin's overall claims costs are significantly lower than average and our state's Worker's Compensation system continues to be a national success story.

We recognize there is room for improvement. Our organizations took a balanced approach when considering changes to the system in order to preserve the positive outcomes and decades of work accomplished by previous Councils. Our teams focused on several areas of the system in preparing this proposal, including *OUTCOMES, COST, and QUALITY*.

OUTCOMES: ***Data show that in Wisconsin, the period of time an injured worker is away from his or her job is lowest in the country; in fact, the period of disability is half the national average. This benefits the entire system and all of its participants, including the employer.***

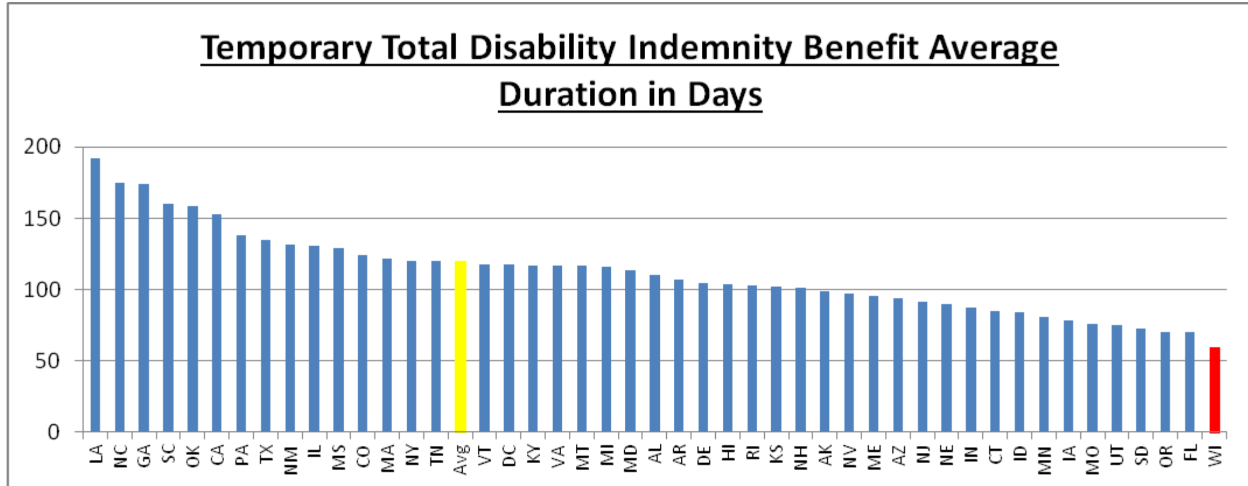
COST: ***While prices for some services are higher in Wisconsin compared to other states, the overall cost of medical care provided through the Worker's Compensation system is lower than average and lower than our neighboring states of Minnesota, Iowa, and Illinois. Wisconsin is also below the national average in overall claims costs.***

QUALITY: ***Wisconsin is ranked consistently among the best states in overall health care quality. The Worker's Compensation system benefits from our high quality, value based health care system, which truly is a competitive advantage for Wisconsin.***

We look forward to working with you to improve our system while preserving its many strengths.

Outcomes: Wisconsin's Worker's Compensation Success Story

Wisconsin employers and employees have access to one of the best health care systems in the country. Wisconsin health care providers are leading the nation in the way they do business, becoming leaner and more efficient in order to deliver excellent care at lower costs. Care is centered on the patient, helping that patient return to normal activities and stay healthy. In Wisconsin, when an employee is injured on the job, that employee receives high quality and efficiently delivered care and thus spends less time away from work. The data show exactly that. The period of time an injured worker in Wisconsin is away from his or her job is the lowest in the country. In fact, the period of temporary total disability is half the national average.



Source: NCCI Research Brief (August 2013, Table 3), published by the National Council on Compensation Insurance, Inc. (NCCI).

This reduces overall Worker's Compensation costs for employers and increases the productivity of Wisconsin businesses.

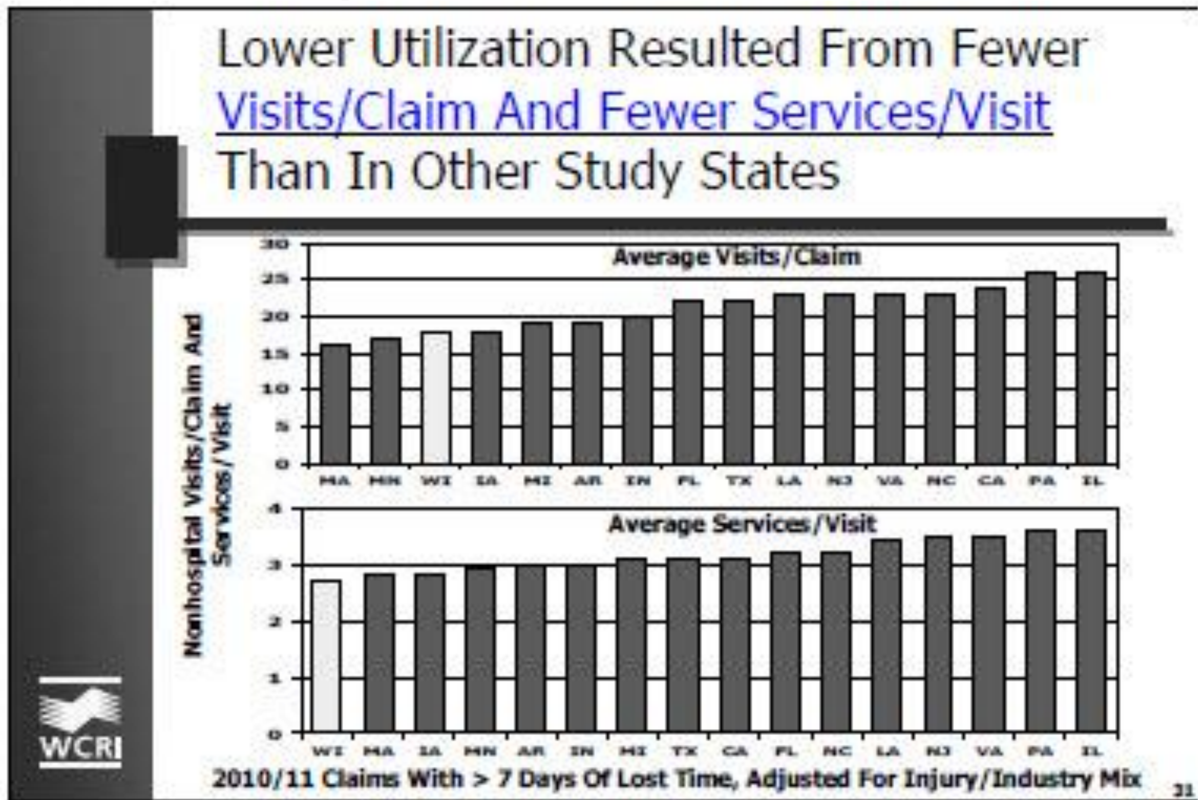
Health care leaders across Wisconsin are transforming health care to deliver even better value for an employer's Worker's Compensation dollar. As employers know, inefficient, poor quality health care can lead to lower productivity and higher Worker's Compensation costs, becoming a drag on a business' efforts to grow. Wisconsin businesses, however, benefit from a health care system that provides high quality health care efficiently.

Efficiency is an important part of health care value and health care value is everyone's goal. Efficiency is the product of medical procedure prices and the number of those procedures performed per injury. Considered as an equation, such a measure would look something like:

PRICE x UTILIZATION = EFFICIENCY

Much attention has been paid to individual procedure prices – and that is certainly a worthy area of discussion, but only if also compared with the other important variable in the value equation: utilization.

Luckily for those of us searching for ways to find improved health care efficiency, WCRI has a wealth of data in this area. Those data show that Wisconsin providers charge carriers for fewer visits per claim than nearly all and fewer services per visit than all WCRI states:



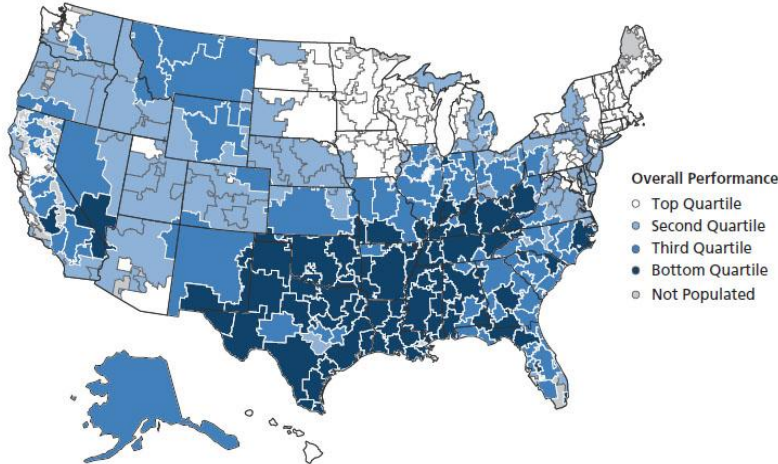
Source: CompScope™ Medical Benchmarks for Wisconsin, 13th Edition, Workers Compensation Research Institute (WCRI), February 2013.

EFFICIENCY +QUALITY = VALUE

Efficiency is a worthy goal, but again not by itself: patients will not benefit from efficient health care unless the care they receive is high quality. Fortunately, Wisconsin excels in this area as well. The federal Agency for Health Care Quality (AHRQ) consistently ranks Wisconsin as one of the highest in the nation in overall health care quality scores based on the 171 measures the AHRQ uses to evaluate health care performance. The Commonwealth Fund ranks Wisconsin high in its recent report measuring the overall performance of a community's health care system.

This is Wisconsin

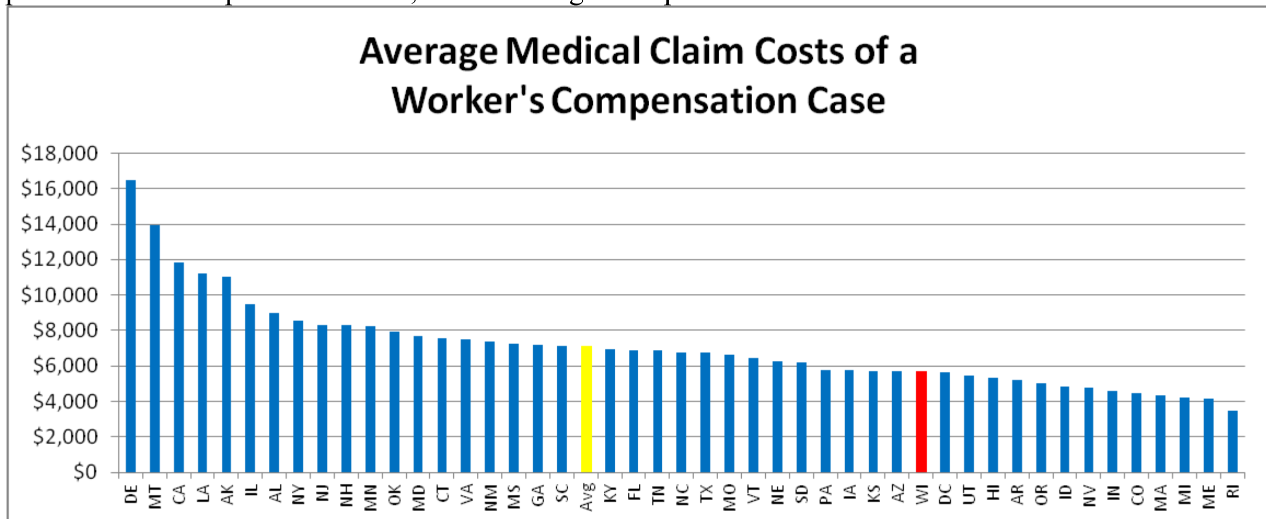
Overall Health System Performance



Source: Commonwealth Fund Scorecard on Local Health System Performance, 2012.

The map is a graphic representation of a basic truth: our health care system provides *VALUE* for each health care dollar, and that is a competitive advantage for Wisconsin.

But does that advantage also exist in the Worker's Compensation subset of Wisconsin health care? Again, the data seem to answer this question with an emphatic "yes." When looking at the average medical cost per Worker's Compensation claim, Wisconsin again outperforms most of the nation:



Source: Annual Statistical Bulletins (2010-2012, Exhibit XI), National Council on Compensation Insurance, Inc. (NCCI).

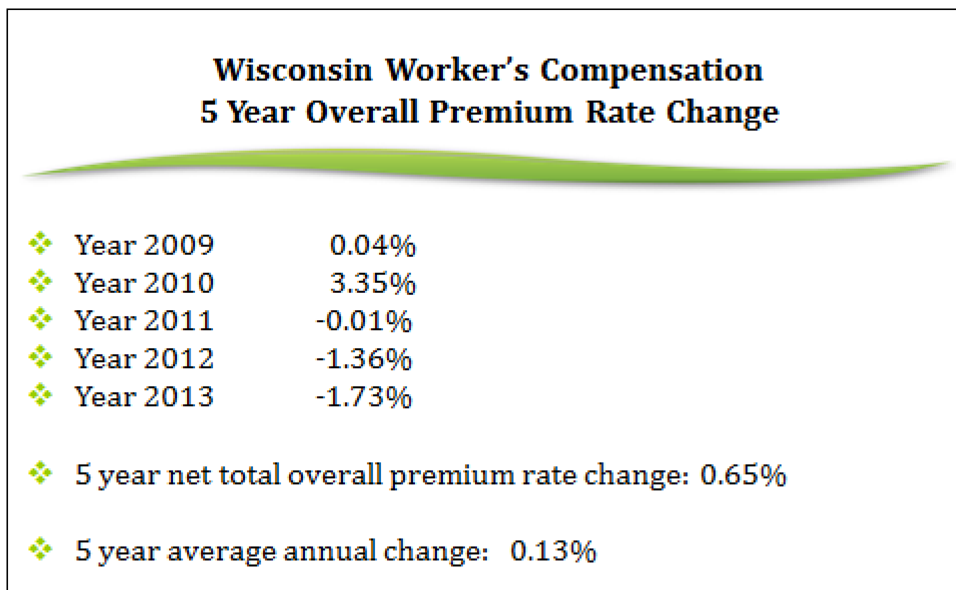
Wisconsin's higher than average quality and lower than average treatment costs are an important part of the shift from volume to value based health care. This shift permeates the Wisconsin way of providing health care.

The health care provider community encourages the Worker's Compensation Advisory Council to recognize and embrace this volume-to-value shift rather than propose short-sighted "cost-saving" methods that artificially influence the system away from its naturally efficient state. The experience and the data do not support imposition of government price controls for Worker's Compensation – commonly called "fee schedules." The vast negative experience of the two major government price controls in health care, Medicaid and Medicare, provide ample evidence why government-imposed price controls do not work.

Costs: Look at the Big Picture

Perhaps the most important examination of Worker's Compensation cost is the trend of what Wisconsin businesses are paying for Worker's Compensation insurance. Are rates dramatically rising, putting Wisconsin at a disadvantage?

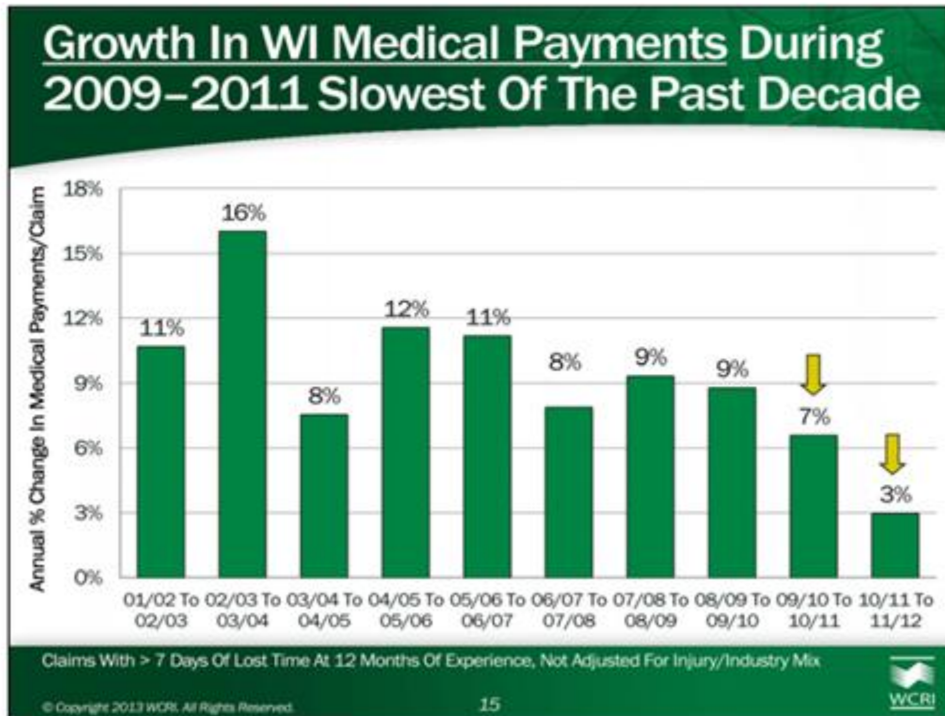
The data answer this question emphatically to the negative: as the Department of Workforce Development pointed out during its testimony to the Senate and Assembly's Labor committees at the Joint Informational Hearing on July 31, 2013:



Source: DWD PowerPoint Presentation to Joint Informational Hearing, July 31, 2013.

One could make the case that the story should stop right there: after all, these premium payments are the ultimate bottom line indicator about the state's Worker's Compensation "burden" to business. We can continue the discussion, however, as so much attention has been paid to rising health care costs as part of the system.

Like costs in other sectors of health care, Worker's Compensation costs have also risen at a steady rate, although the last two years have seen a dramatic reduction in the amount of annual increase:

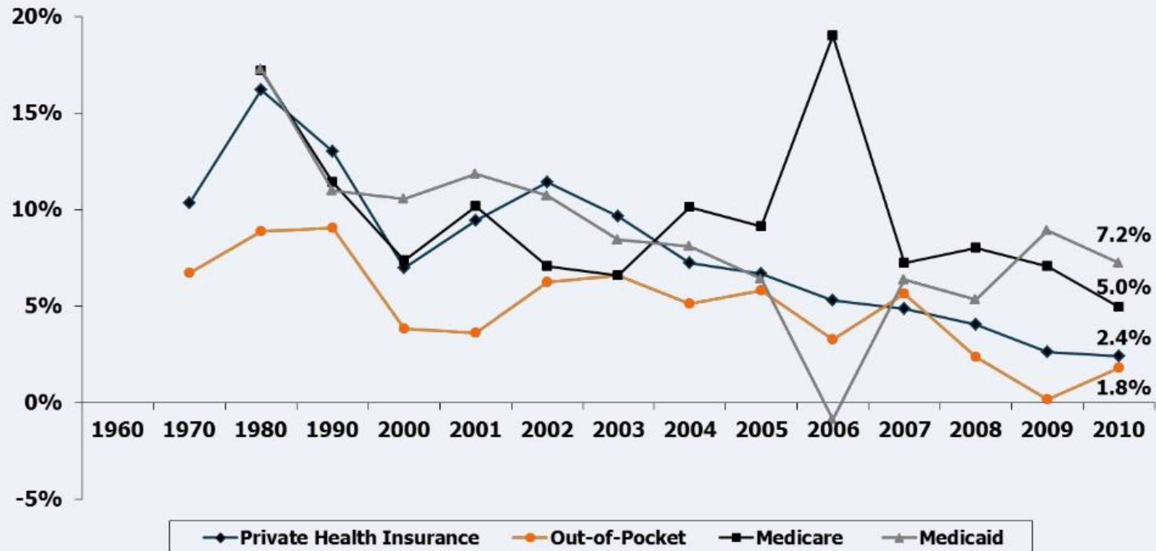


Source: CompScope™ Benchmarks for Wisconsin, 14th Edition, Workers Compensation Research Institute (WCRI), October 2013.

It is unclear why medical payments have stabilized in the last two years, but alterations to the WC program the last several years could be contributing factors. For example, DWD 81 – the administrative code chapter creating treatment guidelines for Worker's Compensation care – came about as part of the 2005-06 bargaining session creating the Health Care Provider Advisory Committee, which recommended creation of treatment guidelines for WC care. Those new guidelines were approved and took effect in November 2007. Just two bargaining sessions later, the WCAC made a major alteration to the formula determining reasonableness of medical fees: under 2011 Wisconsin Act 183, the State Legislature approved the WCAC's proposal to tighten the standard deviation calculation used to determine the cutoff point for charge reimbursement from 1.4 standard deviations above the mean to 1.2 standard deviations above the mean.

It is interesting to compare this chart with that looking a bit broader. Here is a chart showing the rate of national health care spending growth, divided into different spending programs:

Annual Percent Change in National Health Expenditures, by Selected Sources of Funds, 1960-2010



Notes: This figure omits national health spending that belongs in the categories of Other Public Insurance Programs, Other Third Party Payers and Programs, Public Health Activity, and Investment, which together represented about 20% of total national health spending in 2010. Medicare and Medicaid were enacted in 1965; by January 1970, all states but two were participating in Medicaid. Implementation of the Medicare Part D prescription drug benefit was the major cause of the 2006 increase in Medicare spending and decrease in Medicaid spending (Medicare replaced Medicaid drug coverage for dual eligibles).

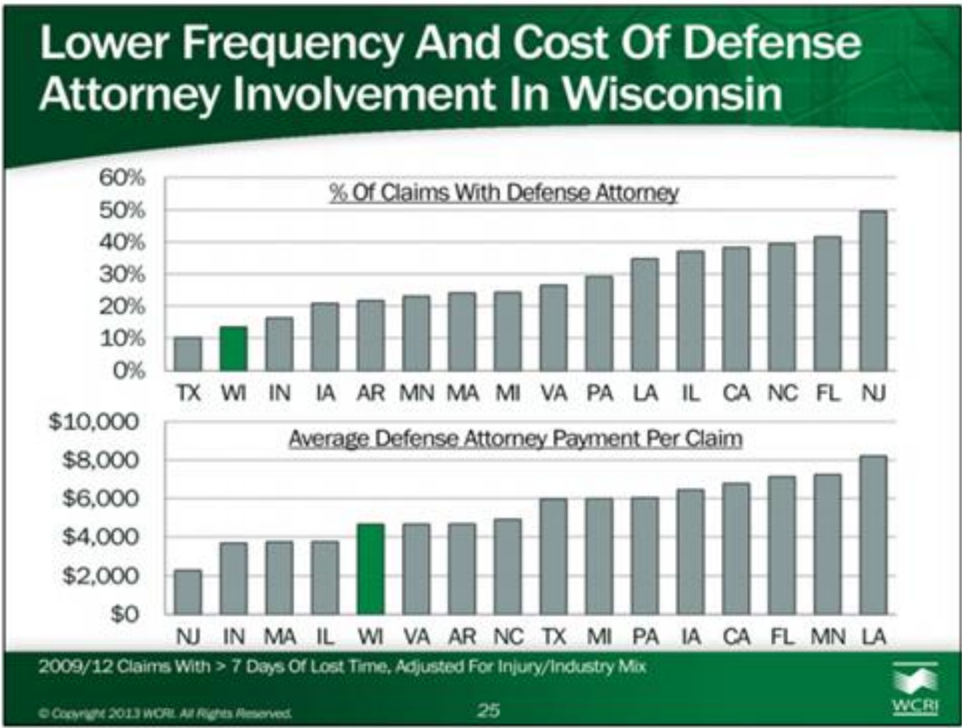
Source: Kaiser Family Foundation calculations using NHE data from Centers for Medicare and Medicaid Services, Office of the Actuary, National Health Statistics Group, at http://www.cms.hhs.gov/NationalHealthExpendData/ (see Historical; National Health Expenditures by type of service and source of funds, CY 1960-2010; file nhe2010.zip).

We believe it is important to note that the two highest areas of spending growth occur where government has intervened and created strict fee schedules: Medicare and Medicaid. Certainly there is more to this overall story, but the warning is stark: government fee-setting does not help control overall costs.

Quality: Patient Satisfaction Is a Key Indicator

The tremendously positive outcomes in Wisconsin manifest themselves in very important ways: quicker return to work, less repeat and extra medical care and patient satisfaction are all important measurements.

But this satisfaction shows up in other important areas as well that help increase the quality and efficiency, or the value, of the Wisconsin Worker's Compensation system. One area again emerges from the WCRI data: an extremely low level of "lawyering up" after suffering an injury on the job:



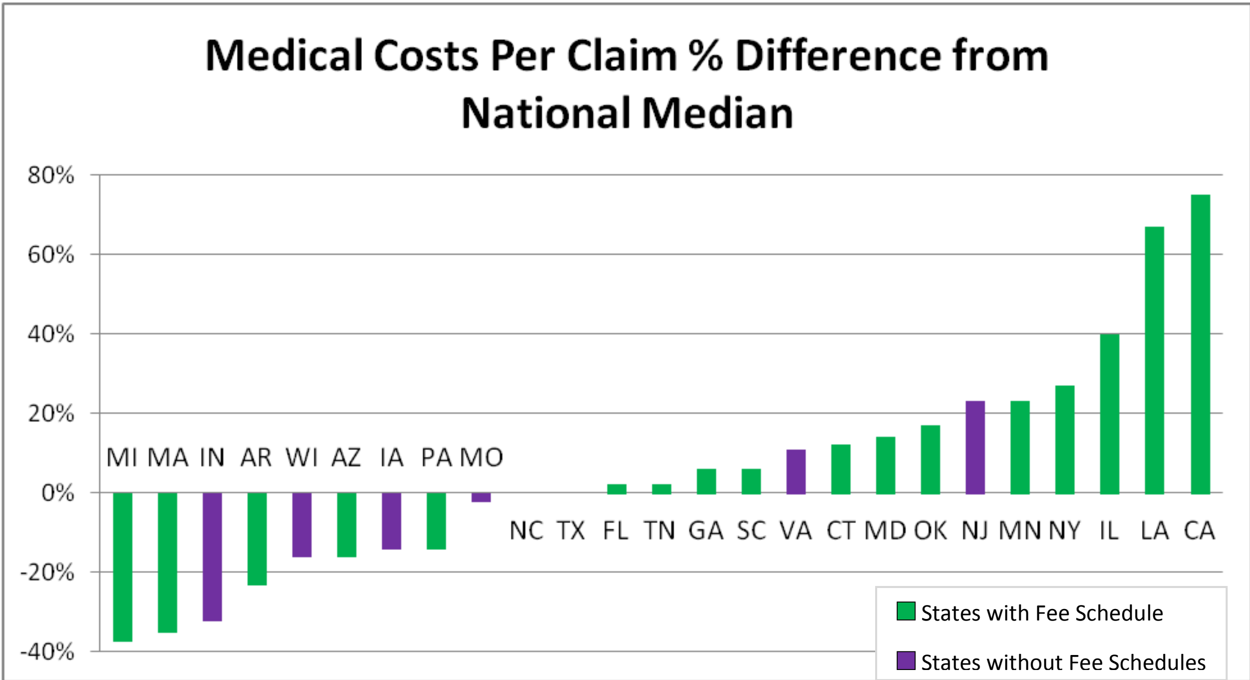
Source: CompScope™ Benchmarks for Wisconsin, 14th Edition, Workers Compensation Research Institute (WCRI), October 2013

A low litigation rate benefits all in the Worker's Compensation system by ensuring resources are used for returning the patient to health and providing the employer with a productive, satisfied employee sooner than the national average. Litigation is perhaps the most inefficient possible use of Worker's Compensation dollars.

To summarize, Wisconsin employees and businesses both benefit more than their national peers due to Wisconsin's Worker's Compensation health care efforts. The *Price x Utilization* formula results in health care that is more efficient compared to other parts of the country, meaning higher quality is obtained at a moderate price.

The WCAC Proposals

As with endeavors outside of health care, it is extraordinary for government, in effect, to establish basic contract terms between two private organizations via legislative mandate. Rate setting by the government, implemented through a fee schedule, is exactly that. At its core, Worker's Compensation is a private insurance program. Unlike Medicaid and Medicare – two of the few existing programs with government imposed health care fee schedules – and unlike Unemployment Insurance, the government is not the payer in the Worker's Compensation program. Wisconsin and some other states have benefitted from what has been limited government intrusion into the private negotiations and contracts between health care providers and Worker's Compensation insurers and self-insurers. The states with the greatest government involvement are often the states with the highest costs.

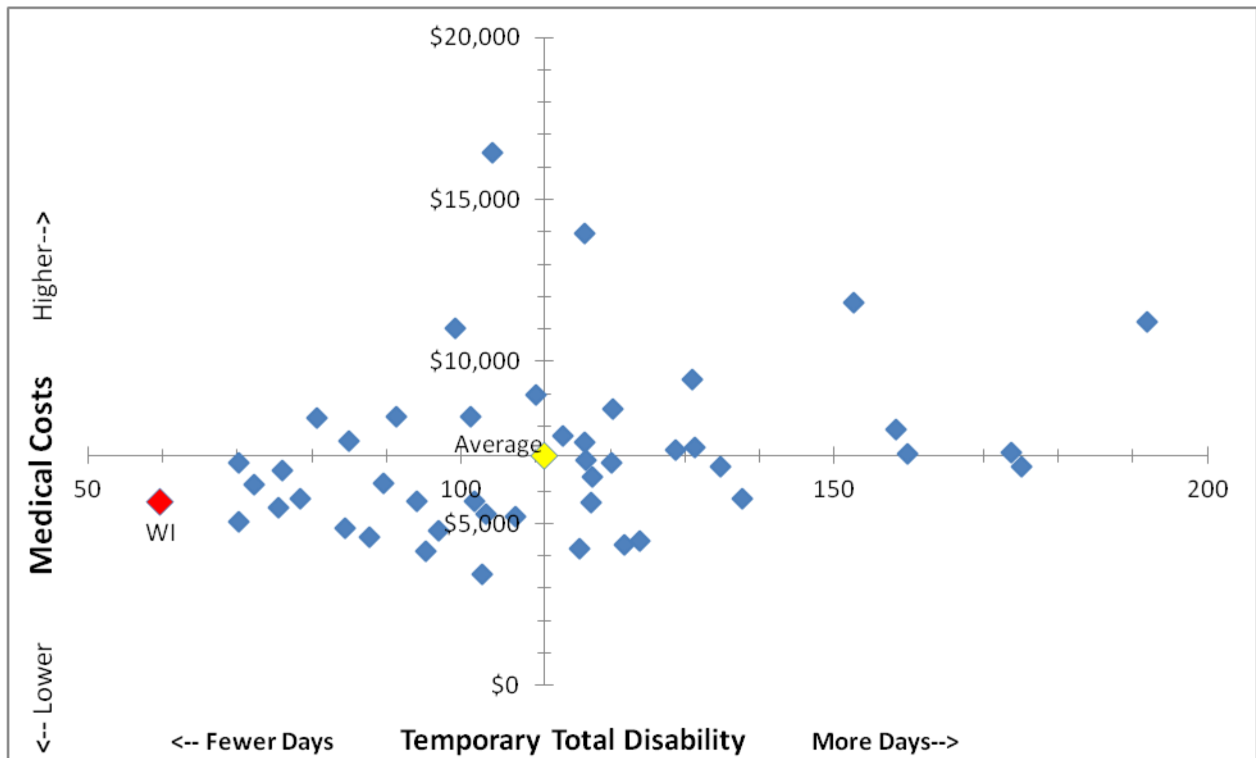


Key: States with fee schedule are indicated in green and states without fee scheduled are indicated in purple based on WCRI's labels. *CompScope™ Medical Benchmarks for Wisconsin, 13th Edition,* Workers Compensation Research Institute (WCRI), February 2013.
Source: Annual Statistical Bulletins (2010-2012, Exhibit XI), National Council on Compensation Insurance, Inc. (NCCI).

Wisconsin health care providers have long negotiated discounts and other incentives with private payers, including Worker's Compensation carriers and self-funded plans, in return for administrative ease and prompt payment. But instead of relying on private negotiations, the WCAC seeks to mandate specific contract terms, including the price for health care services provided to injured workers.

The health care provider organizations disagree with this approach. We are unable to name a program that has been improved by replacing a private sector, market-based system with government rate setting. As mentioned previously, the Medicare and Medicaid programs are good warnings of what happens when government mandates prices. The rate-setters for both programs every year search for the next tweak in the fee schedule that will solve the latest identified problem, whether that is costs that are too high, reimbursement that is too low, lack of access, or a new incentive to affect care. The Worker's Compensation system, instead, should rely on the excellent health care system that has evolved in Wisconsin and that has resulted in low overall costs with excellent outcomes.

The following chart draws from two different measures to plot where Wisconsin's Worker's Compensation system compares to other states: amount of time lost in the workplace due to injury and the average medical costs of a Worker's Compensation claim. The result is stark – high value medical care producing excellent results.



Sources: Annual Statistical Bulletins (2010-2012, Exhibit XI), National Council on Compensation Insurance, Inc. (NCCI).
NCCI Research Brief (August 2013, Table 3), published by the National Council on Compensation Insurance, Inc. (NCCI).

Health Care Liaisons Proposal: Immediate Savings and Efficiencies

As stated by members of the legislature and as described above, our current Wisconsin Worker's Compensation system is not only far from broken, it is often seen as a nationwide model. Still, the health care providers have been asked to suggest ways to help contain health care costs, both immediately and in the future. The health care liaisons appreciate the Council's recognition that changes suggested in a vacuum could cause multiple unintended consequences and threaten the positive aspects of our system.

Simply put, changes to the system should rely on the system's current strengths instead of risking poorer outcomes in return for a short term or illusory reduction in cost. Establishing a fee schedule or other reimbursement formula ignores the strengths of the current system. If the Worker's Compensation system will define specific terms for the arrangement between providers and insurers, the providers encourage relying on traditional negotiated terms. For example, an insurer might negotiate provider discounts based on care management, prompt payment, and auditing restrictions.

Like price setting, the legislature, for the most part, has not mandated administrative and payment terms for the Worker's Compensation system. While Wisconsin Workers' Compensation insurers, self-funded plans, and WCAC members seek payment levels similar to those negotiated by health insurers or even lower, the Worker's Compensation carriers do not meet even the minimum payment and processing standards of the health insurance industry. For example, Workers Compensation claims dominate health care providers' aged accounts receivables. As any business knows, aged accounts receivables are a significant cost for a business. Any discount from a provider's charges must be linked to meeting prompt payment and other standards. Often, if a health insurer does not meet the payment term, the insurer loses

the discount. Worker's Compensation insurers and self-funded plans likewise should lose access to a discount if they do not meet specific administrative and payment terms.

Another cost driver in the Worker's Compensation system is the payers' reliance on paper based, antiquated payments systems. Our health insurance system relies almost exclusively on electronic claims submission and payments. Claims that are paper intensive for both the provider and the payer add significant costs to the program.

Proposal: Discounts in Payment
As is typical in negotiations between providers and payers, the provider proposal includes discounted prices for payers that meet administrative and payment standards. The providers propose the following schedule:

- Claim paid within 30 days: 10 percent off billed charges.
- Claim paid within 45 days: 5 percent off billed charges.

The providers also propose to require the insurers to move toward an electronic claims system, which can help facilitate the ability to make payment within the suggested time targets. To do business in the state, Worker's Compensation insurers and self-funded plans must be able to accept electronic claims submissions and make electronic claims payments by January 1, 2016.

We estimate that if insurers meet the prompt payment terms of this proposal, Workers' Compensation insurers and self-funded plans could reduce their exposure for medical costs provided to injured workers by $9 million to $24 million. (This estimate relies on a number of data sources and assumes, based on WCRB data, the total amount paid by Worker's Compensation payers for medical care provided to injured workers is $413 million in the most recent year available.) The actual savings for any one insured or self-funded plan would depend on its current negotiated discounts with providers and its performance.

Proposal: Maintain current payment limit
Payers, like under current law, would be allowed to reduce a provider's bill that is more than 1.2 standard deviations above the mean charge to the amount that is 1.2 standard deviations above the mean charge.

Proposal: Improved Database for Fee Disputes
As part of the proposal to maintain the current payment limit for charges greater than 1.2 standard deviations above the mean charge, the providers propose that DWD create a robust database for calculating the 1.2 standard deviations above the mean charge using data reported to the Worker's Compensation Ratings Bureau, the Wisconsin Health Information Organization, and the WHA Information Center.

Proposal: Drug Dispensing from a Physician Office
This item has been proposed by both Labor and Management, and was highlighted in the various state legislators' September 30, 2013 letter to the WCAC (see page 3, number 6). The health care liaisons believe this would be an acceptable efficiency in our WC system; we suggest the WCAC be watchful of any access issues that may develop with this change.

Proposal: Medical Record Copy Fees
This item, proposed by Labor (item no. 2), recognizes the special circumstances of a Worker's Compensation claim. To be consistent with the Disability Determination Bureau and the Social Security Administration, establish $26 as the rate for an electronic copy of the medical record requested by the injured worker.

Proposal: Adoption of ICD-10 Codes
The liaisons also urge the WCAC to adopt the Department's proposal (number 4) to amend DWD 80.72 (Health service fee dispute) and DWD 81 to reflect the national implementation of ICD-10 codes. Providers and payers would like to see the Workers Compensation program require ICD-10CM/PCS codes as of October 1, 2014. There are a bounty of reasons to embrace this change:

Code Maintenance – The four cooperating parties (CMS, NCVHS, AHA and AHIMA) that maintain the ICD system will no longer maintain the ICD-9 system. The last updates were effective October 1, 2013. As new conditions are identified and new care developed and rendered, the ICD-9 system will not be able to account for the changes.

Education and Training – All of the coding education is currently focused on ICD-10. Although it could be up to one year after 1/1/14-9/30/14 dates of service when claims can be resubmitted with ICD-9 codes, the coders and coding operations will be in a declining mode in regard to ICD-9. All efforts will be geared toward ICD-10. Trying to maintain coding accuracy under two systems for any length of time is unrealistic.

Systems – Vendors are changing their systems to accommodate ICD-10 only. Most vendors will not accommodate ICD-9 codes after 10/1/14 dates of service so it would be difficult to submit claims electronically.

Wisconsin Administrative Code – As caregivers become more entrenched in documenting for ICD-10, they will be challenged to meet the treatment guidelines that are ICD-9 code based in DWD 81. New providers, whether they are MDs, DOs, NPs, PAs, chiropractors, or physical therapists, will be taught to document for ICD-10 only.

Coordination of Benefits – All payers and clearinghouses that are HIPAA covered entities must accept and adjudicate claims in an ICD-10 format. It will be difficult for a Worker's Compensation carrier to coordinate benefits with a payer that must comply with ICD-10, as they will be using two different sets of codes if the Worker's Compensation carrier is using ICD-9.

Specificity – The greatest strength of ICD-10 is the granularity. If the Worker's Compensation program does not make the transition to ICD-10 the benefit of the granularity will not be realized by the program.

Health Care Liaisons Proposal: Future Savings/Improvements

The aforementioned letter from nine state legislators contained many thoughtful suggestions for how the Worker's Compensation system could be improved going forward. We greatly appreciate a theme that runs through many of those suggestions: relying on the expertise of the Health Care Providers Advisory Committee to craft potential changes to various aspects of Worker's Compensation. This recognizes that those most familiar with what it takes to provide high-quality worker's compensation care – actual health care practitioners – are in prime position to make recommendations that can improve our state's Worker's Compensation system without harming the stellar record of outcomes, access and patient satisfaction with that system.

We believe that many of the legislature's health care-related suggestions are sound and should become the HCPAC's agenda for their quarterly meetings. The committee could submit recommendations in the following areas for full WCAC consideration:

- **Review the treatment guidelines in DWD 81 (page 2, item 3)**. While the data on Wisconsin's Worker's Compensation outcomes and value is overwhelmingly positive, there is always room for improvement. We believe the HCPAC is poised to examine how the current guidelines can be improved and/or serve as a way to ensure Worker's Compensation care is provided appropriately.

- **Review Disability Ratings in DWD 80.32 (page 2, item 4).** This area of Worker's Compensation procedure often does not garner the same level of attention as health care prices, yet this topic deserves periodic review for its long-range implications.

- **Opioid Treatment (page 3, item 3).** Opioids can be a powerful treatment for injured workers suffering with great pain. Improper opioid use can also lead to crippling dependency and possible abuse. This is not unique to just Worker's Compensation-related treatment – it is a problem in all spectra of health care. Injured workers throughout Wisconsin and the state's prescribers would all benefit from a thorough examination of opioid use and prescribing practices.

We also believe the HCPAC is well-positioned to make potential recommendations in other important areas:

- **Compounding Drugs**. Pharmacy compounding is the practice of combining multiple ingredients into one medication, often designed specifically for an individual patient. This is a newer area of science in medicine and could use expert review.

- **Causation and Return to Work Assessments**. While not explicitly in the letter, review of this area is similar in importance to the disability ratings suggestion above. Assessments made in these areas can lead to tremendous costs downstream, so additional attention to this area is warranted.

The legislators' letter also highlighted a situation that is clearly causing consternation in the business community: small employers who receive large Worker's Compensation premium increases despite having no claims in the previous year (see page 3, item 8). We urge the WCAC to voice its concerns in this area to the Wisconsin Compensation Rating Bureau to determine if any improvements can be made in this area. The insurance industry is a valuable partner in ensuring that all who participate in the Worker's Compensation system are aiding its fairness and efficiency.

The health liaisons appreciate the time granted for proper preparation of this proposal. The state's health care entities take tremendous pride in the many positive aspects of Wisconsin's Worker's Compensation system. Health care, at its core, is providing services to patients who need the right kind of care at the right time, delivered for an appropriate cost. The data show that few states – if any – provide higher quality care. This benefits the most important participant in any health care system: the patient.

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Note:
The health care liaisons' proposals detailed above therefore would adopt, amend, or replace the following proposals:

Management:
2. Medical fee schedule
3. Employer directed care for the first 90 days
4. Reduce the statute of limitations from 12 years to three years
5. Implement treatment guidelines as treatment parameters
10. Maximum reimbursement for repackaged drugs

Labor:
2. Medical record copy fees
3. Maximum reimbursement for repackaged drugs
4. Surgical implant fee formula
11. Medical expense liability equity

Department proposals:
4. Adopt ICD-10 codes

<u>Adopt</u>:
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<u>Amend</u>:
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Labor proposal:
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<u>Replace</u>:
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