

Health care providers and insurance companies in negotiations with lawmakers are starting to get a clearer picture of how they'll get paid for workers compensation claims. Right now, Delaware has a list of how much procedures and medications cost, developed with input from the state known as a fee schedule.

The rough draft of the next fee schedule would be partially based on how much Medicare pays doctors — and then modified by a formula that takes into account local cost factors and other data. The Health Care Advisory Panel (HCAP), which authored the proposal, would then cut prices until they reach 20 percent savings over the current system.

Talks between the three parties on the fee schedule were heated at times during Friday's Workers Compensation Task Force meeting, as state lawmakers and chair Lt. Gov. Matt Denn (D) backed a plan that varied slightly from HCAP's.

It would use fee schedules from Maryland, New York and Pennsylvania to help establish a ceiling. Provider reimbursements couldn't exceed the most expensive fee in those states for the same procedure.

Wilmington accident lawyer and task force member Joseph Rhoades joined providers in vehemently opposing that provision, saying that doctors would start denying care to workers compensation clients. "I've seen that when you reduce the amount of money that doctors are paid to a point where it's just not worth the time and effort to continue treating people, some of the best doctors stop doing it," says Rhoades. On top of that, some fear that tying these fees those set elsewhere could have unintended consequences.

Wayne Smith, President and CEO of the Delaware Healthcare Association, which represents Delaware hospitals, says it could skyrocket costs even higher or sink them below the rate of return at the whim of an outside entity. "It's bad policy to offload it to other states and export responsibility and lose control. It's an exceedingly dangerous and bad road to go down," says Smith.

Rep. Bryon Short (D-Brandywine Hundred) and fellow lawmakers aren't backing down from some kind of comparison. He pointed out Delaware ranks among states with the highest final paid medical costs and most expensive fee schedules as reason enough to use outside benchmarks as a cap. "I think it makes it a better thing for us to explain to constituencies that I speak to. [We'd] be in the relative field with other states instead of just saying this is 'Delaware stuff.'"

Despite the clear divisions between the three parties, Smith offered up a bargaining chip: hospitals would adhere to the new fee schedule, as long as they could also benefit from that 20 percent savings over the current system.

Since the first workers compensation fee schedule took shape in 2007, Denn says hospitals have sidestepped it and considers this a victory. "For the first time in seven years, the hospitals agreed that they should follow the same rules as everybody else when it comes to charging for workers compensation payments. We spend 23 percent of our workers comp medical costs in hospitals, so that alone is a pretty big step forward." The group's work stems from double-digit workers compensation insurance premium hikes during the past two years that prompted an outcry from the business owners, most of whom are required to carry coverage. HCAP will now reconfigure its proposal and return with a hybrid version for the next task force meeting April 25, as the group prepares to send its final report to the General Assembly in mid-May.

Denn underscored the importance of endorsing a robust list of suggestions, as their attempts last year netted only a seven to eight percent savings for medical costs while facing down proposed premium increases of more than 40 percent. "The onus is on us to make recommendations that are aggressive enough that we can have a high level of confidence to get results," says Denn. "Our credibility is at stake here."