

# Medical Care and Benefits

In recent years, the cost of health care has risen more rapidly than overall inflation. In Oregon's workers' compensation system, the cost of medical services has increased more than 37 percent since 2002. In 2009, payments for medical services accounted for 53 percent of workers' compensation system costs in Oregon.

## Early cost-containment measures

In 1990, Senate Bill 1197 eliminated most palliative care for medically stationary injured workers. Palliative care is treatment to relieve symptoms rather than to improve the worker's underlying condition. These restrictions had an immediate effect on workers who had been receiving palliative treatment. SAIF's medical payments for palliative care in the first six months after the medically stationary date dropped more than 30 percent following the implementation of SB 1197. In 1995, SB 369 restored a worker's right to a broader range of care after being declared medically stationary. Workers can now receive palliative care if they have a permanent total disability or a prosthetic device, when they need services to monitor prescription medicine, or when the attending physician believes the palliative care is necessary for continued employment.

SB 1197 also placed limits on who could be an attending physician. The attending physician must provide or prescribe care. Under SB 1197, for example, a chiropractor outside of a managed care organization could not continue to be a worker's attending physician beyond 12 visits or 30 days after the first service date. Data from SAIF showed that the proportion of payments to chiropractors dropped from 16 percent before 1990 to 3 percent after 1990. House Bill 2756 (enacted in 2007) relaxed the limitation to 18 visits or 60 days from the first service date. HB 2756 also changed limits for other provider types acting as attending physicians. These changes are discussed in more detail later in the report.

## Medical benefits

Insurers and self-insured employers must pay the cost of medical services for compensable claims. During the period before a claim is accepted or denied, however, there is uncertainty about who will be responsible for medical bills. This uncertainty may lead some medical providers to delay treatment until after insurers make compensability decisions, or make them reluctant to treat injured workers at all.

In 2001, the Legislature addressed this problem in two ways. First, SB 485 reduced the time allowed for insurers to accept or deny a claim from 90 days to 60 days. Second, it amended the law to require payment for some services performed prior to acceptance or denial. Included among these services are pain medicine, some diagnostic services, and services to stabilize the worker's condition and prevent further disability. However, the law excludes services provided to workers enrolled in managed care organizations.

For denied claims, medical costs are paid as follows:

- If the insurer denies the claim more than 14 days after the employer knowledge date and the worker has health insurance, the health insurer pays for the services, subject to the limitations in its policy; the workers' compensation insurer pays any balance.
- If the insurer denies the claim within 14 days of the employer knowledge date and the worker has health insurance, the health insurer pays for the services, subject to the limitations in its policy; the worker pays any balance.
- If the insurer denies the claim and the worker has no health insurance, the worker pays the entire bill.

## Fee schedules

The first fee schedules for medical services in Oregon were implemented in 1982. Fee schedules now exist for eight physician service categories, pharmacy services, durable medical equipment and

medical supplies, and multi-disciplinary services and other Oregon-specific service codes. Insurers pay for medical services at the lesser of the fee schedule or the billed amount. Currently, nearly all payments for medical services to injured workers are subject to a fee schedule. The department is currently looking at new fee schedules for other service areas.

In 1997, the department adopted the Federal Resource-Based Relative Value Schedule (RBRVS) method for determining the maximum payment for the physician service categories. Conversion factors for the categories are published annually in OAR 436-009. For durable medical equipment and medical supplies, the maximum is 85 percent of the manufacturer's suggested retail price or 140 percent of the actual cost, whichever is greater. The maximum allowable fee for pharmaceuticals is 83.5 percent of the Average Wholesale Price, plus a \$2.00 dispensing fee.

The Workers' Compensation Division implemented a hospital payment system using adjusted cost-to-charge ratios (CCR) in 1991. Since July 1992, the department has published revised CCRs semi-annually for all general, acute-care hospitals in the state. The CCR is the proportion of the hospital bill that insurers reimburse Oregon hospitals for treating injured workers. The CCR calculation is based on information from hospitals' audited financial statements and Medicare cost reports. The CCR allows hospitals to recover the cost of providing facility-related services to injured workers, a reasonable rate of return on their capital assets, and an allowance for losses due to bad debt and charity care.

Rural hospitals may be excluded from imposition of the CCR. This exclusion is based on designation as a critical-access hospital under the Medicare Rural Hospital Flexibility Program or on economic need as determined from financial reports. Currently, 25 of the 58 hospitals in Oregon are designated as critical-access hospitals. One additional rural hospital qualifies for the exclusion based on its financial condition. Exempt hospitals are paid 100 percent of charges.

## **Managed care organizations**

SB 1197 (1990) established regulations regarding workers' compensation insurers' contracts with department-certified managed care organizations (MCOs) and it set the rules under which covered workers must obtain treatment within MCOs. MCOs contract with medical providers and, in return, MCO-covered workers are directed to those providers for treatment. The terms and conditions differ by MCO, but they must include treatment and utilization standards and peer review. Each panel of providers must include eight types of medical service providers: chiropractors, naturopaths, acupuncturists, osteopaths, dentists, optometrists, podiatrists, and physicians.

In 2005, SB 670 made revisions to the statute regarding MCOs. The bill clarified that in order for an MCO to become certified, the DCBS director must review and approve the standards contained in the MCO's plan. The bill also provided that the managed care plan cannot prohibit an injured worker's attending physician from advocating for medical services and temporary disability benefits supported by the medical record. This provision addressed concerns that some managed care contracts contained provisions limiting the attending physician's role.

As of fiscal year 2009, four certified MCOs had 99 active contracts with workers' compensation insurers and self-insured employers. In 2009, 40 percent of workers with accepted disabling claims were enrolled in MCOs. SAIF has used MCOs more than most other insurers. In 2009, SAIF enrolled 63 percent of its claimants with accepted disabling claims. For comparison, self-insured employers enrolled 39 percent of their claimants with accepted disabling claims, and private insurers enrolled 9 percent of their claimants.

## **Medical payments**

The Workers' Compensation Division requires that insurers with 100 or more accepted disabling claims report their medical payment data. In 2009, approximately 85 percent of total medical payments were reported under the administrative rules. Total medical payments in 2009 are estimated to be \$333.4 million.

In 2009, payments for hospital outpatient services exceeded payments for all other provider types; \$86.5 million, 26 percent of all payments, were made for these services. The costs of hospital outpatient services have been growing faster than for other services, and they exceeded payments to medical doctors for the first time in 2009. Hospital inpatient payments were estimated to be \$43.3 million, 13 percent of the total. Payments to medical doctors were 21 percent of the total.

Among other services, physical therapy costs were approximately 9 percent of total costs, and pharmacy costs were about 6 percent of costs. Narcotic analgesics (pain relievers) ranked as the top category of drugs prescribed to injured workers; more than 40 percent of drug costs were for this class of drugs. Anti-convulsants (anti-seizure medications, 10 percent) and musculoskeletal therapy agents (7 percent) round out the top three classes. The use of generic drugs held steady in 2009 at 77 percent of the dispenses; however, the share of payments has continued to fall and is now at 37 percent. The fall in the share of payments for generic drugs, despite continued use, is likely due to the increasing cost of brand-name drugs.

Independent medical exams account for a significant portion of medical payments. IME services, grouped together to include basic exams, reports, and specialized IME services (panel exams and exams by specialists), totaled 2.4 percent of total medical payments.

## **Recent initiatives and studies**

### **Nurse practitioners**

In 2003, HB 3669 relaxed restrictions regarding who can be an attending physician by allowing nurse practitioners to perform some of these functions. The bill requires nurse practitioners to become authorized by the department to provide any compensable medical services as attending physicians. It allows authorized nurse practitioners to give expanded treatment in three significant ways. They may provide compensable medical services for 90 days from the date of the first visit on the claim, authorize the payment of temporary disability benefits for 60 days, and release workers to their jobs.

In 2005, the department began a study to measure the effects of HB 3669. The study provided the results of a review of the department's medical billing data, claims information provided by SAIF, and a survey of board-certified nurse practitioners. The results found that there were no system cost increases related to the expanded authority for nurse practitioners. In the survey, nurse practitioners reported providing more services to injured workers after the bill went into effect.

### **Care providers**

In 2006, the department, at the request of the Governor and in conjunction with the Management-Labor Advisory Committee, completed a study of care providers. The department and MLAC focused on chiropractors, naturopaths, podiatrists, and physician assistants. The study tried to determine if rules regarding who may treat workers and authorize disability benefits facilitated accessible, timely, efficient, and effective medical treatment. The study included a literature review; an analysis of chiropractic, naturopathic, podiatric, and physician assistant care providers in Oregon's workers' compensation system; employer focus groups; and an injured worker survey.

The literature review found little data about the role of chiropractors, naturopaths, podiatrists, and physician assistants within the workers' compensation system. The available data did not provide sufficient evidence to either support or oppose a change in Oregon's limitations on who can treat workers.

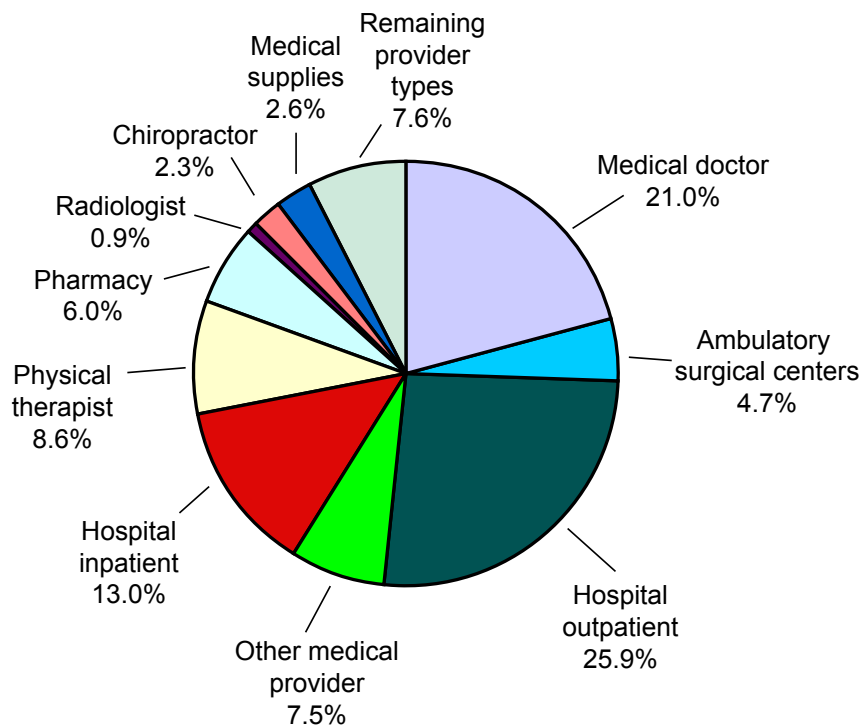
Employers and injured workers indicated that they were generally satisfied with access to quality health care, the choice of available health care providers, and the quality of care received. Both groups requested that additional restrictions not be added to the current system.

The 2007 Legislature passed HB 2756, which expanded the roles and responsibilities of certain provider types. The new law increased the role of chiropractors, nurse practitioners, podiatrists, naturopaths, and physician assistants to act as attending physician. The new time limit for these providers to act as attending physician was established at 18 visits or 60 days from the first date

of service, whichever comes first. These providers were also allowed to authorize temporary disability for up to 30 days from the first service date.

The new law also allowed a medical provider who did not qualify to be an attending physician to provide compensable services for the first 30 days or up to 12 visits, whichever comes first. Beyond the 60 days or 18 visits for chiropractors, nurse practitioners, podiatrists, naturopaths, and physician assistants, and 30 days or 12 visits for providers not authorized to be attending physicians, only a doctor of medicine, osteopathy, or maxillo-facial surgery can act as attending physician.

**Figure 6. Top 10 medical payments by provider type, 2009**



Note: "Other medical provider" payments are chiefly for independent medical exams and ambulance services. The "Remaining provider types" are acupuncturist, dentist, home health care, laboratory, naturopath, nursing home care, occupational therapist, optometrist, osteopath, physician assistant, podiatrist, psychologist, and registered nurse practitioner.