October 31, 2018

Clarissa M. Rodriguez, Chair
New York State Workers' Compensation Board
328 State Street
Schenectady, NY 12305

Re: Chiropractic Revised Fee Schedule Comments

Dear Chairwoman Rodriguez:

The New York State Chiropractic Association and the New York Chiropractic Council support the Workers Compensation Board's (WCB) effort to increase medical fees under Workers' Compensation (and by extension No-Fault), which have gone relatively unchanged since 1996. We are pleased to see some productive revisions in the latest draft of the proposed fee schedule.

Our main concern remains the significant disparity in the conversion factor of the chiropractic fee schedule as compared to other disciplines. *As detailed below, services rendered by a Doctor of Chiropractic should be valued between that of a general practice physician and physical therapist.*

A general practice physician can expect to receive a 46% higher reimbursement than a Doctor of Chiropractic for the delivery of the physical medicine services, while a physical therapist can expect to receive a 33% higher reimbursement.

Current proposed conversion factors			
	Physical Therapy	Chiropractic Physical Medicine	Physician Physical Medicine
Region 1	$7.69	$5.77	$8.43
Region 2	$7.69	$5.77	$8.43
Region 3	$8.79	$6.60	$9.65
Region 4	$9.55	$7.17	$10.48
Across all regions, DCs receive 46% less than MDs, and 33% less than PTs for the provision of physical medicine services.			

During the first round of public comments, our discussion of conversion factor went unaddressed. As such, we still do not understand how it was calculated or what factors went into its determination. Looking at how conversion factors are determined in other states and other

programs, all the information we have gathered regarding the cost of providing care, training of the provider, and practice expense supports *updating the chiropractic conversion factor to create parity with other providers rendering physical medicine services to New York's injured workers.*

Historical continuance: In 1974, Doctor of Chiropractic were first allowed to treat injured workers in New York, but at a significantly reduced rate. There were no medical treatment guidelines to promote quality and control costs. Undervaluing chiropractic care continues in the workers compensation system. *Carrying forward historical inequity is not acceptable, not representative of NY's values, and must be addressed.*

Provision of care: When reviewing the modalities and procedures included in the physical medicine fee schedule, certain services make it abundantly clear that disparate fees are inappropriate. The use of modalities during acute care (e.g., therapeutic ultrasound) have most of their expense in the purchase and maintenance of the equipment. Hands on treatment such as spinal manipulation, manual therapy, and joint mobilization, takes years of clinical training to gain competency and years of practice to master. It is difficult to comprehend why an injured worker receiving therapeutic ultrasound, therapeutic exercise or other recommended procedures from a physical therapist results in 33% higher payment than when administered by a Doctor of Chiropractic. *The delivery of the service is patient-dependent and the same regardless of discipline.*

Training and Expertise: Considering education requirements, Doctor of Chiropractic are educated in nationally accredited, 5-year doctoral programs after they receive their bachelor's degree. The chiropractic curriculum includes a minimum of 4,200 hours of classroom, laboratory and clinical internship with the average DC program equivalent to or exceeding medical (MD) and osteopathic (DO) medical classroom hours[1]. A DPT degree is typically completed in 115-133 credits over 3 years, with some physical therapists practicing with only master's or even bachelor's degree[2]. Occupational therapists also enjoy a higher conversion rate compared to Doctor of Chiropractic despite training limited to the bachelor and master's degree level. *The cost of training and expertise are typically embedded into conversion rates.*

Relevant Supporting Data: Individual factors that are typically considered when creating conversion factors again support the premise that parity is not only plausible but present in other systems.

The Resource-Based Relative Value System (RBRVS) is commonly utilized throughout the insurance industry as a basis to determine reimbursement rates. According to RBRVS calculations, 55% of the value of a service is determined by the physical work component (as ascribed to each CPT code). The remaining 45% includes both practice and malpractice expenses. Physical work is the same fixed amount (as defined by each unique CPT code) regardless of specialty. Recognizing that the majority of the value of any service is based upon the service itself, without consideration of discipline, many carriers, such as the NYSHIP, utilize one standardized fee schedule for medical doctors, physical therapists and Doctors of Chiropractic. New York's Managed Physical Medicine Program, now administered by Optum, incorporated parity in their fee schedules approximately 20 years ago and carries forth *parity* to this day.

Looking at the practice expense component, the AMA and the Lewin Group completed a Physician Practice Information Survey (PPIS) in 2008 that has been used to establish conversion factors and has been published in the Federal Registry. When comparing practice expense per hour (PE/HR) the PPIS data was as follows[3]:

PPIS data PE/HR		
Physical Therapy	Chiropractic	General Practice Physician
57.26	65.33	78.59

The Centers for Medicare and Medicaid Services (CMS) has established practice expense estimates based on current resource cost data using input from the American Medical Association and other provider groups. CMS has readily available data portraying physician expenses by specialty. According to 2017 data utilized in 2018 calculations, the physician expenses per hour by provider type is as follows (limited to those who deliver physical medicine services)[4]:

CMS data		
Physical Therapy	Chiropractor	General Practice Physician
68.47	76.03	114.65

As you can see from these sources, (note: these are NOT chiropractic studies), *the cost of running a chiropractic practice is routinely between that of a physical therapist and general practice physician*.

Recommendation:

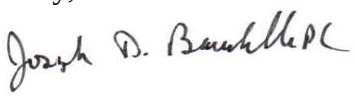
The evidence supplied above supports a chiropractic conversion factor being placed between that of physical therapy and general practice physicians. As such we recommend a conversion factor ranging from $7.88 to $9.79 for regions 1-4 as outlined in the Table below. Based on the above discussion and evidence, the chiropractic conversion factor must not be less than that of other specialists rendering similar services.

Recommended Chiropractic Conversion Factor	
Region 1	$7.88
Region 2	$7.88
Region 3	$9.01
Region 4	$9.79

The WCB has implemented many positive changes to expedite the treatment and administration of care for New York's injured workers. The Medical Treatment Guidelines and associated processes apply to all injured workers and treating providers equally, recognizing that the needs of the injured worker, not the discipline of the provider, drive the standards of quality patient care. A fair, impartial evidence-based standard should also be represented in the proposed fee schedule.

Sincerely,

Jason Brown, DC
President,
New York State Chiropractic Association



Joeseph Baudille, DC
President,
New York Chiropractic Council

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[1] https://www.acatoday.org/Patients/Why-Choose-Chiropractic/Chiropractic-Qualifications
[2]http://www.apta.org/For_Prospective_Students/PT_Education/Physical_Therapist_(PT)_Education_Overview.aspx
[3] https://www.gpo.gov/fdsys/pkg/FR-2009-07-13/html/E9-15835.htm
[4] https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices-Items/CMS-1676-P.html?DLPage=1&DLEntries=10&DLSort=2&DLSortDir=descending