

2009 Fall National Meeting  
Washington, DC

**CONSUMER CONNECTIONS (D) WORKING GROUP**

**September 22, 2009**

**2:00 p.m. – 3:00 p.m.**

**Gaylord Convention Center – Potomac Ballroom C**

**ROLL CALL**

Wayne Goodwin, Chair	North Carolina		
Joel Ario, Vice Chair	Pennsylvania	Ann Frohman	Nebraska
Christina Urias	Arizona	Neil Jasey	New Jersey
Jay Bradford	Arkansas	James J. Wrynn	New York
Steve Poizner	California	Scott J. Kipper	Nevada
Marcy Morrison	Colorado	Mary Jo Hudson	Ohio
Thomas R. Sullivan	Connecticut	Kim Holland	Oklahoma
Kevin McCarty	Florida	Teresa Miller	Oregon
Michael T. McRaith	Illinois	Leslie A. Newman	Tennessee
Susan E. Voss	Iowa	Mike Geeslin	Texas
James J. Donelon	Louisiana	Kent Michie	Utah
Mila Kofman	Maine	Paulette Thabault	Vermont
Ralph S. Tyler, III	Maryland	Alfred W. Gross	Virginia
Glenn Wilson	Minnesota	Mike Kreidler	Washington
John Huff	Missouri	Jane L. Cline	West Virginia
Monica Lindeen	Montana	Sean Dilweg	Wisconsin

**AGENDA**

1. **Receive Update on Insurance Contract Readability** Attachment One and Two  
- Commissioner Dilweg (WI)
2. **Discuss Autism Coverage/Mandates Survey**  
- Commissioner Ario (PA)
3. **Discuss ICAE Complaint Data Analysis Position Paper** Attachment Three  
- Commissioner Ario (PA)
4. **Discuss Complaint Reconciliation Survey – Next Steps**
5. **Receive Brief Update on Consumer Information Source (CIS) Suggested Wording**  
- Commissioner Ario (PA)
6. **Adopt August 8<sup>th</sup> Conference Call Minutes** Attachment Four  
- Commissioner Ario (PA)
7. **Any Other Matters Brought Before the Working Group**  
- Commissioner Ario (PA)

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# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

*Jim Doyle, Governor*  
*Sean Dilweg, Commissioner*

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DATE: September 18, 2009  
TO: Sean Dilweg, Commissioner  
FROM: Briana Olson, Policy Analyst  
SUBJECT: Readability

Per your request, I have provided an example of how the new regulation in Rhode Island, requiring policy forms to be written at the 8<sup>th</sup> grade reading level, will increase the readability of these forms. This example was taken from a NY Times article entitled "Plain English Is the Best Policy."

The following passage explains when the insurance company will pay a claim if the child is also covered by a second insurance policy:

The plan covering the patient as a dependent child of a person whose date of birth occurs earlier in the calendar year shall be primary over the plan covering the patient as a dependent of a person whose date of birth occurs later in the calendar year provided. However, in the case of a dependent child of legally separated or divorced parents, the plan covering the patient as a dependent of the parent with legal custody, or as a dependent of the custodial parent's spouse (i.e., stepparent), shall be primary over the plan covering the patient as a dependent of the parent without legal custody.

According to the Flesch-Kincaid measure of readability, the previous passage is written at graduate-school level. Next year, in Rhode Island, the passage will have to read more like this:

What happens if my spouse and I both have health coverage for our child?

If your child is covered under more than one insurance policy, the policy of the adult whose birthday is earlier in the year pays the claim first. For example: Your birthday is in March; your spouse's birthday is in May. March comes earlier in the year than May, so your policy will pay for your child's claim first.

What happens if I am legally separated or divorced?

If your child is covered by your policy and also by the policy of your separated or divorced spouse, the policy of the parent with legal custody pays first. In other words, if you have legal custody, your plan pays first. The same rule applies even if your child is covered by a health insurance policy of a stepparent. For example: Your former spouse has legal custody, and his/her new spouse's policy covers your child. The new spouse's policy will pay your child's claim first.





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DATE: September 18, 2009  
TO: Sean Dilweg, Commissioner  
FROM: Briana Olson, Policy Analyst  
SUBJECT: Readability Working Group

Per your request, the following is a brief summary of the status of the new Readability Working Group.

- The Wisconsin Insurance Commissioner's Office has not modified its administrative rule regarding the readability of insurance policies since 1980. Our current readability policy requires a minimum score of 40 on the Flesch reading ease test or comparable test. According to the Flesch test, this score is considered "difficult" as it is comparable to the reading level of a first year college student.
- Rhode Island recently passed regulation requiring all health insurance policies to have a readability standard of no higher than the eighth grade level (Flesch score of 60). This regulation goes into effect August 1, 2010.
  - o Based on contact with the Rhode Island Department of Insurance, only one public comment was filed on this issue. The comment was from Blue Cross Blue Shield, which had concern that the original effective date (May 2010) did not give adequate time for BCBS to adjust policy forms to meet the new standard. The effective date was then changed to August 2010. They were also concerned that policy forms would become substantially longer due to the new standards.
  - o Overall, insurers seemed relatively supportive of the effort.
- As Wisconsin's Insurance Commissioner, I have decided to create a new work group to review current issues around readability and plain language standards. The Readability Work Group is comprised of about ten members with diverse expertise in property and casualty, health and life personal lines insurance.
- The charge to the group is to review current requirements on policy language simplification in Ins 6.07, for example, the required Flesch score. The group will also review "plain English" requirements used in other states. The goal is to increase consumers' ability to easily locate and understand information contained in their insurance policies while maintaining insurers' ability to establish clear coverage limits.

- The first meeting of the work group will be Thursday, October 9<sup>th</sup> from 1 p.m. – 3:30 p.m. at our office in Madison. Professor Brenda Cude of the University of Georgia (who is also a consumer advocate for the NAIC), will give a presentation to the working group summarizing her research on this issue.
- There will be between two – three additional monthly meetings. At the final meeting, the group will make a recommendation to me on an administrative rule change relating to the readability of Wisconsin insurance policies.
- For more information on the working group including a list of member names, meeting minutes, and handouts, please visit: <http://oci.wi.gov/advcouncil.htm>. There is not yet a link for the Readability Working Group but it will be set-up soon.

Draft: 8/19/09

Consumer Connections (D) Working Group  
Conference Call  
August 5, 2009

The Consumer Connections (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met via conference call Aug. 5, 2009. The following Working Group members participated: Wayne Goodwin, Chair, represented by Bob Lisson (NC); Joel Ario, Vice Chair, represented by Donna Flickinger and Peter Camacci (PA); Jay Bradford represented by Joe Musgrove (AR); Leone Tiffany (CA); Marcy Morrison represented by Peg Brown (CO); Thomas Sullivan represented by Gerard O'Sullivan (CT); Luther Ellis (DC); Kevin McCarty represented by Vicki Twogood (FL); Michael McRaith represented by Mary Peterson (IL); Susan Voss represented by Angel Robinson (IA); James Donelon represented by Cherise Forte, John Lamke and Clarissa Preston (LA); Ralph Tyler represented by Joy Hatchette (MD); Mila Kofman represented by Robert Wake (ME); Glenn Wilson represented by Tina Armstrong and Sherri Mortensen-Brown (MN); Mary Kempker (MO); Monica Lindeen (MT); Ann Frohman represented by Jane Francis (NE); Scott J. Kipper (NV); Neil Jasey represented by Anne Marie Narcini (NJ); Morris J. (Mo) Chavez represented by Melinda Silver (NM); Kermit Brooks represented by Sandra Anderson, Gail Keren and Sylvia Lawson (NY); Mary Jo Hudson represented by Anne Jewel (OH); Kim Holland represented by Susan Dobbins (OK); Teresa Miller represented by Ron Fredrickson (OR); Leslie Newman represented by Vickie Trice (TN); Mike Geeslin represented by Jack Evins (TX); Kent Michie represented by Tanji Northrup (UT); Paulette Thabault (VT); Jackie Myers represented by Althelia Battle (VA); Mike Kreidler represented by Leslie Krier (WA); Jane Cline represented by Tom Barton and Andrew Pauley (WV); and Sean Dilweg represented by Jo LeDuc, Brianna Olson and Jennifer Stegall (WI). Also participating was: Chad Bridges (MS).

1. Develop Agenda for Public Hearing on Usual, Customary and Reasonable (UCR) Issues

Mr. Lisson said that the primary agenda item for this call was to develop recommendations for the scope/agenda of the upcoming joint public hearing on usual, customary and reasonable (UCR) issues, and for possible invitees to provide testimony. Recommendations will be forwarded to Commissioner Holland, chair of the Market Regulation and Consumer Affairs (D) Committee, and Commissioner Sandy Praeger (KS), chair of the Health Insurance and Managed Care (B) Committee. Mr. Lisson also stated that, if the UCR hearing consumed all of the time on today's call, then the remaining agenda items would be addressed during the Working Group's meeting at the Fall National Meeting.

2. Scope

Mr. Lisson requested input from the Working Group regarding the agenda and whether the scope should be limited to health insurance or if it should also include property/casualty insurance. Mr. Lisson asked Lois Alexander (NAIC) if the Property and Casualty Insurance (C) Committee was aware that this joint hearing was scheduled for the Fall National Meeting. Ms. Alexander responded that the Committee was aware of it.

Ms. Brown said that UCR is tied to balance billing and that the bigger issue is balance billing, as well as the role UCR plays in controlling that issue. Mr. Wake agreed with Ms. Brown's statement. Mr. Lisson said that UCR and balance billing overlapped. He asked Ms. Alexander if balance billing could be included in the hearing format. Ms. Alexander said that would be possible, if the Working Group recommends it and the joint committees accept the Working Group's recommendation in this regard.

Mr. Musgrove asked if this was an access issue, rather than a balance billing or UCR issue. Ms. Brown said that, from a consumer perspective, it is not an access issue — but it is very much a UCR or balanced billing issue, because the consumer has verified with the carrier in advance that the surgeon is in-network and that the hospital is in-network. She said it is only reasonable for consumers to think that all of the providers serving in that hospital are also in-network; only to find out later when they receive a huge bill that some of the providers are not in-network. Mr. Musgrove said that providers are not subject to regulation by state insurance departments. Mr. Wake said that controlling balance billing is the responsibility of state insurance regulators, as is fighting for the rights of consumers when it can be shown that hospitals that are in-network have non-network providers (e.g., pathologists, specialists, x-ray technicians, anesthesiologists, etc.) performing services without the prior knowledge of its patients.

Mr. Musgrove asked if the scope of the hearing should include consumer-disclosure issues. Ms. Silver said the hearing should include consumer-disclosure issues, because consumers should be made aware of what they are required to pay prior

to receiving services. Ms. Keren asked if Working Group members knew of people in their state who had contracted for UCR that didn't receive UCR; or, if this is just a disclosure issue after all. Ms. Narcini said this hearing should serve to discover how, by definition, carriers determine UCR figures in order to answer the question regarding whether a consumer-disclosure standard needs to be developed by regulators. Mr. Lisson said that disclosure issues should not be tied to the UCR issue, because it deals with out-of-network charges. Mr. Lisson also said that the U.S. Senate staff report lays out the UCR issue in this manner, as well.

Mr. Musgrove said that changes in this area are not singular and would have a parallel effect on premiums. Mr. Wake said if one area is being short-changed on UCR fees, then another area is getting more than they should — it balances itself out. The area affected (up or down) could be an insurer, an insured, a provider, an uninsured or an underinsured.

### 3. Recommendations for Invitations to Testify

Mr. Lisson pointed out that the U.S. Senate Committee on Commerce, Science and Transportation held hearings related to the UCR issue in March and June of this year. Mr. Lisson read brief summary descriptions of these hearings and the names of witnesses who provided testimony (as posted on the Senate Committee's Web site), provided the Web site address and recommended that a member of U.S. Sen. Jay Rockefeller's (D-WV) staff be invited to testify at the hearing. Mr. Evins said that the National Conference of Insurance Legislators (NCOIL) held a roundtable discussion on balance billing during their Summer Meeting. Mr. Evins recommended that a representative from NCOIL be invited to testify at the hearing. Mr. Evins said he would send a clean copy of the NCOIL Summer Meeting Report to NAIC staff for distribution to the Working Group.

Ms. Silver made note of the Maine Health Accountability Tool presented during a recent state regulators conference. Ms. Silver recommended that someone from the Maine Bureau of Insurance be invited to testify at the hearing. Mr. Lisson and Ms. Alexander said that NAIC funded consumer representative Kevin Lucia, Georgetown University, had offered to testify at the hearing by sharing his paper on balance billing. The paper, *Unexpected Charges: What States are Doing about Balance Billing*, was written jointly by Mr. Lucia, Jack Hoadley and Sonya Schwartz (National Academy for State Health Policy) for the California HealthCare Foundation. Ms. Brown said that she was one of the regulators who participated with Mr. Lucia in the preparation of the balance billing paper and she strongly recommended that Mr. Lucia be invited to testify at the hearing. Ms. LeDuc agreed that asking Kevin Lucia to testify was an excellent idea.

Mr. Lisson noted that NAIC staff had prepared a table based on legislative research regarding UCR issues and updated with revisions from a survey of state insurance regulators. Mr. Lisson, Ms. Keren and Ms. Silver recommended that the survey be submitted as written testimony during the hearing. Ms. Brown and other regulators commented on the relationship between UCR and balance billing. The thrust of these comments was that the two issues are interrelated and that the end result of UCR disputes is non-par providers' balance-billing of consumers.

Mr. Brown recommended that provider/industry representatives — such as the American Medical Association (AMA) and America's Health Insurance Plans (AHIP) — be invited to testify. Mr. Lisson commented that the AMA had testified at the recent Senate hearing, and asked Marty Mitchell (AHIP) for comments on potential AHIP participation. Mr. Mitchell indicated AHIP's willingness to participate.

Mr. Musgrove suggested that a representative from the Academy of Actuaries be invited to testify at the hearing. He said that no discussion of the UCR issue would be complete without such testimony. Mr. Wake said that actuarial testimony should be presented at a later date, because the scope of this hearing was limited to basic fact-finding and information-gathering.

Mr. Lisson asked if there were any other comments. Chris Petersen (Morris, Manning & Martin) asked if the scope of the agenda would be determined before the hearing is held. Mr. Lisson said that the Health Insurance and Managed Care (B) Committee and the Market Regulation and Consumer Affairs (D) Committee would use the recommendations of the Working Group (as developed during this call) as a basis from which to define the scope of the agenda. These two committees will also issue invitations to testify.

Having no further business, the Consumer Connections (D) Working Group adjourned.

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