

## WORKERS' COMPENSATION

**Beacon Mutual's divorce from Blue Cross generates confusion**

Late in 2009, Beacon Mutual Insurance Company, Rhode Island's largest writer of worker's compensation insurance, informed the Medical Society that Beacon wanted to have closer relationships with the physician community and assume more direct management of workers' compensation cases. With those purposes in mind, Beacon moved this year to terminate its long-standing arrangement with Blue Cross & Blue Shield of Rhode Island for administrative and network services and to replace that arrangement with a new, three-part strategy: Beacon is now performing more care management in-house, contracting with Mitchell Health Services for billing, and ceding to Prime Health Care responsibility for managing Beacon's provider network.

Unfortunately, some communication glitches with Beacon's new partners marred the transition, and some confusion persists.

For physicians, the questions began

to arise in May 2010, when many Rhode Island physicians received correspondence from Prime that indicated – misleadingly – that physicians would have to join a Prime PPO in order to be included in Beacon's Preferred Provider Network (PPN).

**PPN vs. PPO**

PPN is a term of art that is unique to the language of Rhode Island's workers' compensation law and is not interchangeable with the more familiar term PPO (Preferred Provider Organization). Rhode Island law guarantees injured workers complete freedom of choice in their initial selection of a treating physician and does not allow insurers to limit workers' initial choice to any particular network. Moreover, if a treating physician refers the patient to a specialist for treatment or consultation, the referring physician and injured worker retain the right of free choice for that initial referral. However, a subsequent change in an injured worker's treating physician or referrals must be made within the insurer's approved Preferred Provider Network (PPN), and that PPN must be on file with the Workers' Compensation Medical Advisory Board.

The participating agreement Prime offered to Rhode Island physicians for its PPO raised concerns at RIMS, because the Prime PPO was all-purpose, not limited to workers' comp, and it included a substantial discount in reimbursement from the standard workers' compensation fee schedule. Such discounting threatens a linchpin of Rhode Island's highly successful workers' compensation act, which has been a national model since its passage in 1992. Integral to Rhode Island's success is the mandate that physicians and other health care professionals must be reimbursed at a rate that ensures injured workers timely access to care by the doctor of their choice and fairly compensates physicians for the

additional administrative requirements of the workers' comp system.

RIMS immediately sought a meeting with representatives of Beacon, the Medical Advisory Board (MAB), and the Worker's Compensation Advisory Council (WCAC). Beacon subsequently instructed Prime to rescind its all-purpose PPO provider agreement offer. In addition, the Worker's Compensation Advisory Council drafted legislation to remove any possible ambiguity about the key provisions of the 1992 reforms, including the subordinated function of the PPN. This new statutory language affirms that "any contract proffered or maintained which restricts or limits the health care provider's ability to make referrals pursuant to the provisions of this section, restricts the injured employee's first choice of health care provider, substitutes or overrules the treatment protocols maintained by the medical advisory board or attempts to evade or limit the jurisdiction of the worker's compensation court *shall be void as against public policy*" (emphasis added).

The Medical Advisory Board has also explicitly warned that "any effort to amend the PPN because a caregiver has refused to participate in a PPO will be strenuously resisted by the Board."

Prime subsequently offered physicians the opportunity to join a workers' comp-specific PPO (again with a discount of the workers' compensation fee schedule), which will presumably become a basis for replacing Beacon's current PPN with a new Prime PPN early next year. Beacon's current approved PPN is valid through February of 2011.

Each individual medical practice must make its own decision with regard to participation or non-participation in Prime's PPO and the possibility that it may evolve into the workers' comp PPN next year. One factor for consideration would clearly be an assessment of the value to the particular practice of being a member of the PPN,

bearing in mind that the PPN becomes relevant only when an injured worker switches from his or her original choice of physician.

**Workers' comp fee schedule COLA**

In 1999 RIMS was successful in promoting the addition of an annual cost of living adjustment (COLA) to the workers' compensation fee schedule. A COLA has been applied every year since, with the sole exception of 2009; in that year the indices would have provided a COLA of less than 1%. For 2010, a COLA of 2.8% should become effective in October; however, the Workers' Compensation Division of the Department of Labor and Training informs RIMS that the 2010 COLA may not be applied uniformly to all services. This year's COLA is more likely to be applied to the fees that are close to Blue Cross payment levels and less likely to be applied to fees that are already well in excess of what Blue Cross has been paying for a given service.

**AMA 6th Edition now the law**

The 2010 changes to the workers' compensation act also include the adoption of the 6th Edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*. This standard will now be used to determine the earnings capacity of an injured worker as a percentage of an uninjured worker's capacity, based on the AMA *Guides*.

The Workers' Compensation Advisory Council has invited the AMA and RIMS to make a presentation on the 6th Edition *Guides* on September 29th. In addition, RIMS and the AMA will be available to offer training programs on the 6th Edition, if there is sufficient demand.

More information about the 6th Edition *Guides* is available through RIMS' Director of Government and Public Affairs, Steve DeToy (sdetoy@rimed.org). ❖

**Rhode Island Medical Society at the Gamm!****A Night of Theater with RIMS**

You are invited to attend the Rhode Island premiere of "Mauritius" on Thursday, November 4, 2010 at the Sandra Feinstein-Gamm Theatre.

Pricing includes a ticket to the show and a pre-show cocktail hour with hors d'oeuvres. The cost is **\$35** per person. Reservations need to be made by October 18, 2010 and will be made on a first-come, first-served basis.

**Reception** 6:30–7:30 pm

**Performance** 8:00 pm

**Gamm Theatre**, 172 Exchange Street, Pawtucket, 401-723-4266

Located in the historic Pawtucket Armory just 2 blocks from exit 29 off I-95 (and 5 minutes from downtown Providence), The Gamm is easy to find and offers plenty of free parking.

*The Rhode Island Medical Society gratefully acknowledges the support of RIMS Insurance Brokerage Corporation*

**About "Mauritius"**

Mom has died, leaving half-sisters Mary and Jackie with a rare stamp collection. Mary wants to keep it for its sentimental value. Jackie wants to sell it for the fortune it might be worth. Enter three foul-talking shady stamp dealers determined to get the sale, and an elaborate con game over the dubious inheritance unfolds. At once a gripping family drama and a delightfully sinister comedy, veteran playwright Theresa Rebeck's 2007 Broadway hit twists and turns and takes you for a ride until its final shocking scene.

**Reservation Form**

Please respond by October 18, 2010.

Name \_\_\_\_\_

Number of Tickets \_\_\_\_\_

Total Enclosed \_\_\_\_\_ \$35 per ticket

Phone \_\_\_\_\_

Email \_\_\_\_\_

You may pay by check, payable to "Rhode Island Medical Society", or by credit card. Return this form with payment to the Rhode Island Medical Society, 235 Promenade Street, Suite 500, Providence RI 02908.

If you have any questions, please contact Sarah at RIMS' office, 401-528-3281.

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