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CWCI White Paper: The Impact of the Copy Service Fee Schedule on Payments, Service Mix, and Denial Rates

By Stacy L. Jones **September 2018**

Background

In California workers' compensation, copy services are utilized to obtain copies of records that are used to prove or disprove a contested claim. Under Labor Code §4620(a), copy services are considered reimbursable medical-legal expenses, but prior to enactment of the 2012 workers' compensation reform bill (SB 863), there was no standardized system for setting copy service fees, so providers would typically submit their charges for payment and the claims administrators would either pay the amount in full, pay part of what was billed, or deny the bill and pay nothing. Disputes over copy service bills were frequent, with providers often filing liens at the Workers' Compensation Appeals Board (WCAB) to try and recover fees for services where the payment had been denied or reduced.

In 2012, Governor Brown signed SB 863, a comprehensive workers' compensation reform bill which among other things, addressed the lien issue by adding Labor Code §5307.9. This provision of the bill required that the Administrative Director of the Division of Workers' Compensation (DWC), in consultation with the Commission on Health and Safety and Workers' Compensation (CHSWC), adopt a schedule of reasonable maximum fees payable for "copy and related services."

The Initial Statement of Reasons (ISOR)[1] issued by the DWC as part of the regulatory process noted that the adoption of a copy service fee schedule was intended not only to comply with SB 863, but to reduce the administrative burden associated with copy service liens, which had been described by the Department of Industrial Relations (DIR) in its "Liens Report" submitted to CHSWC in January of 2011.[2] One of the recommendations made in the 2011 CHSWC report was a call for the Administrative Director to adopt a fee schedule reflecting fair market value for appropriate copy services.

[1] State of California Department of Industrial Relations, Division of Workers' Compensation. Copy Service Fee Schedule Initial Statement of Reasons. May 16, 2014. https://www.dir.ca.gov/dwc/DWCPropRegs/CopyServiceFeeSchedule/CopyServiceFeeSchedule_ISOR.pdf

[2] California Department of Industrial Relations. Liens Report. The California Commission on Health and Safety and Workers' Compensation. January 5, 2011. https://www.dir.ca.gov/chswc/reports/2011/chswc_lienreport.pdf

Another provision of SB 863 that addressed the burdensome lien issues mandated that the DWC establish an Independent Bill Review (IBR) process to remove payment disagreements related to fee schedule and contract amounts from the jurisdiction of the WCAB. The intent of adopting a copy service fee schedule that defines allowable services and fees, along with an IBR process for resolving billing disputes, was threefold:

- to reduce the system-wide burden of lien processing,
- to improve the timeliness of payments, and
- to lower costs.

After gathering input from the community and holding a series of public hearings on the draft regulations, the DWC finalized the copy service fee schedule in April 2015 and filed the regulations with the Secretary of State. The schedule, which took effect for services provided on or after July 1, 2015, established a single flat fee of $180 for services such as "mileage, postage, pickup and delivery, phone calls, repeat visits to the record source and records locators, page numbering, witness fees for delivery of records, check fees, fees for release of information services, service of the subpoena, shipping and handling, and subpoena preparation" included in obtaining records up to 500 pages.[3] In addition, the schedule defined other reimbursable copy services (service cancellation, pages in excess of 500, and duplication of records) and assigned allowable fees for those services.[4]

Objective

CWCI undertook this study to measure the extent to which the fee schedule has controlled copy service costs and reduced the administrative burden associated with disputes. For the analysis, the author compiled special data sets in order to determine:

- Changes in the average and median amounts paid per claim for copy services following the adoption of the fee schedule.
- The distribution of payments by copy service category (flat fee, cancelled service, certificate of no record, electronic duplicates, and sales tax) for the top 10 providers, who accounted for 75 percent of all copy services in the first half of 2017.
- The distribution of copy service denials by copy service category for the top 10 providers.

[3] 8 CCR §9983 (a) Fees for Copy and Related Services.
[4] Appendix 1 provides a complete list of California jurisdictional codes, the services they represent and the allowable fees.

Data and Methods

The analysis utilized two sets of data:

- Data submitted by CWCI members in response to a special data call. These included copy service provider names and tax identification numbers, service dates from 2013 through 2017, applicant or defense identifiers, and paid amounts.

- IRIS data from contributing members was used to analyze billing and payment patterns for specific California-mandated service codes and service providers.

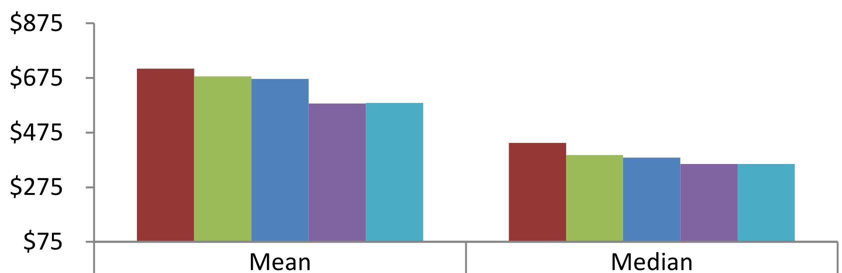
Both sets of data included bill details for insured, self-insured and public entities, making it a representative sample for statewide comparison. Billing records from 229 copy service providers were included in the data.

Results

Using copy service payment data provided by regional and national workers' compensation insurance carriers, as well as public and private self-insureds, the author compared expenditures per claim before and after the fee schedule change. Since the fee schedule change was made in July 2015, the analysis was restricted to payments made between January and June of each year. The mix of claims receiving services in each year was comparable in terms of attorney involvement and time from carrier notification.

Exhibit 1 compares the mean and median copy service payments per claim for the first six months of each study year.

Exhibit 1: Payments per Claim - 6-Month Comparisons



	Mean	Median
2013	$709	$437
2014	$681	$393
2015	$671	$383
2016	$581	$360
2017	$584	$360

The results show an overall decline of 17.7 percent in both the average and median payments from 2013 to 2017. The January through June 2013, 2014 and 2015 data reflect the payments made prior to the implementation of the fee schedule, while the 2016 and 2017 data reflect payments based on the copy service fee schedule rates. Both the average and median amounts paid for copy services prior to the schedule taking effect were well above those paid after the schedule was in place. Though the average and median payments had been trending down in the three years prior to the adoption of the schedule, since the schedule has been in place, they have stabilized at the new, lower levels.

Implementation of the copy service fee schedule included mandatory use of state-defined service codes and the provision of an explanation of review related to the payment or denial of service charges. Reporting of the service codes allowed CWCI to add detailed copy service data to our IRIS database and enabled the author to analyze detailed data on the specific categories of copy services billed, the amounts paid, and the denial rates for those services. Continuing with analyses based on the six-month (January through June) payment data, service code level details were extracted for the most current 2017 activity. Although there were more than 200 providers in the study sample who had received copy service payments, most of the copy services were concentrated among a relatively small number of providers. Exhibit 2 shows that the top 10 copy service providers in the study sample accounted for 75.3 percent of the 2017 copy service payments, and notes the distribution of payments for a subset of copy services (flat fee, cancelled service, certificate of no record, electronic duplicates, and sales tax) among the top 10 providers.

Exhibit 2: Distribution of Copy Service Payments Among Top 10 Providers

Tax ID	Flat Fee	Cancelled	Cert of No Record	Duplicated < 30 Days	Duplicated > 30 Days	Sales Tax	Grand Total
Provider A	19.7%	27.9%	26.4%	49.0%	52.7%	1.7%	29.6%
Provider B	9.9%	1.9%	12.7%	6.1%	15.6%	30.9%	9.7%
Provider C	7.6%	15.6%	15.9%	3.9%	7.9%	14.4%	8.4%
Provider D	8.0%	6.4%	12.6%	4.9%	2.6%	11.0%	7.2%
Provider E	3.4%	3.7%	1.9%	1.8%	12.2%	2.2%	4.5%
Provider F	7.5%	0.0%	0.0%	0.5%	0.0%	0.6%	4.1%
Provider G	6.3%	0.0%	2.1%	2.1%	0.0%	5.1%	3.9%
Provider H	3.5%	9.4%	3.9%	0.1%	0.0%	0.0%	2.8%
Provider I	3.3%	4.1%	3.6%	0.4%	0.4%	0.0%	2.7%
Provider J	2.2%	0.4%	0.0%	11.7%	0.0%	0.0%	2.4%
% Paid by the Top 10	**71.5%**	**69.4%**	**79.2%**	**80.5%**	**91.5%**	**65.9%**	**75.3%**

The top provider (Provider A) accounted for 29.6 percent of all copy service payments in the first half of 2017. The high proportion of payments for the top provider was further amplified in specific service categories, as this same provider accounted for half (49.0 percent and 52.7 percent, respectively) of the total amount paid for electronic provision of duplicated records within 30 days of a subpoena and after 30 days. Provider C showed a different pattern, accounting for 7.6 percent of flat fee services ($180 per record) associated with subpoenaed records, but 15.6 percent of the cancelled service payments ($75 per cancellation), and 15.9 percent of the certificate of no records payments ($75 per certificate). Likewise, Provider E accounted for only 3.4 percent of payments for subpoenaed records, but 12.2 percent of the total amount paid for providing electronic copies of records after 30 days of the original service. Just three providers (Provider A, Provider B, and Provider E) accounted for more than 80 percent of the electronic duplicates provided after 30 days.

Payments for sales tax showed the greatest variability related to the underlying copy services, as reflected in the distribution of payments for Provider B in Exhibit 2. Although Provider B received 9.9 percent of flat fee service payments and 9.7 percent of total payments, this provider received 30.9 percent of the total payments for sales tax. Payment of sales tax related to copy services is one of the more confusing and opaque requirements of the new fee schedule. Article 3, regulation 1528, of the California Sales and Use Tax Regulations governs payment of sales tax related to copy services and stipulates which services are non-taxable.

Questionable Billing Practices/Red Flags

This study was precipitated by anecdotal reports of abusive business practices associated with bill submissions for cancellation of services, certificate of no records, and copying of records for submission to Maximus for Independent Medical Review (IMR). While the author was not able to analyze the submitted bills, which are required to include descriptions of source information (including type of records, date of service, description of services, and the number of pages produced),[5] the author was able to identify billing practices as well as payment and denial patterns that may warrant additional analysis by payers with access to detailed bills. Exhibit 3 shows the distribution of denial rates for the top 10 providers based on charge categories:

- **High Denial Rates**: A high percentage of copy services are denied (22.3 percent in the January – June 2017 IRIS data set), but the denial rate for some large providers is significantly higher than that. A prime example of this is Provider A. This provider was the number one copy service provider in our data set, accounting for 29.6 percent of the total payments, but this same provider also accounted for 38.2 percent of all denied services and 78.2 percent of the denied charges for duplicated records after 30 days. Providers with disproportionately high denial rates for specific types of copy services merit a close review by payers whenever those providers submit charges for these codes.

[5] 8 CCR §9981(b) Bills for Copy Services.

Exhibit 3: Distribution of Copy Service Denials Among Top 10 Providers							
Provider	**Flat Fee**	**Cancelled**	**Cert of No Record**	**Duplicated < 30 days**	**Duplicated > 30 days**	**Total Pct Denied**	**Total Pct Paid**
Provider A	26.0%	28.0%	32.4%	49.2%	78.2%	38.2%	29.6%
Provider B	2.3%	1.2%	1.4%	0.4%	0.5%	1.5%	9.7%
Provider C	2.9%	4.4%	8.9%	1.2%	0.9%	3.0%	8.4%
Provider D	9.6%	5.8%	9.1%	2.5%	2.1%	7.0%	7.2%
Provider E	3.3%	2.0%	1.3%	1.8%	9.6%	3.8%	4.5%
Provider F	0.8%	0.0%	0.1%	0.0%	0.1%	0.4%	4.1%
Provider G	0.4%	0.0%	0.5%	0.3%	0.0%	0.3%	3.9%
Provider H	12.8%	19.4%	17.2%	0.2%	0.1%	9.9%	2.8%
Provider I	5.8%	4.6%	5.5%	0.1%	1.0%	4.6%	2.7%
Provider J	4.3%	0.4%	0.0%	26.6%	0.0%	5.5%	2.4%
Top 10 Total Percent	**68.4%**	**65.9%**	**76.4%**	**82.4%**	**92.4%**	**74.3%**	**75.3%**

- **Cancellation Charges and the $180 Flat Fee**: Upon receipt of a request for records, claims administrators have 30 days to comply with the request. If the records are not provided, the requestor may issue subpoenas for them. Cancellation charges are associated with subpoenas that are cancelled prior to record retrieval. Although it is not possible to ascertain from the data which cancellations are associated with subpoena work provided within the 30-day window allotted to claims administrators, they undoubtedly contribute to the total. Likewise, it is not possible to ascertain the number of copy services billed and paid under the $180 flat fee category that are associated with a release of records for IMR rather than a subpoena related to medical-legal purposes.

- **IMR-Related Copy Services**: Anecdotal reporting of copy services related to IMR submissions is supported by the active marketing of IMR submission services by at least one copy service provider. Services offered to applicant attorneys include the retrieval of medical records associated with an IMR application and the Notice of Assignment (NOA) by Maximus, and the automatic uploading of medical records to Maximus.[6] In addition to the increased copy service expenses that this type of business practice creates, the Institute is concerned that more IMR denials will be appealed based on the ease of filing rather than a legitimate rationale for appealing the treatment request.

[6] https://gemini.legal/imr

Summary

Implementation of the maximum fee schedule for copy services has provided a basis for equitable and timely payment of copy service fees, but based on a denial rate of more than 20 percent, and the potential impact on an already overburdened and expensive IMR process, there is room for improvement. It would be helpful if future regulatory activity addressed charges for copy services that are not related to resolving medical-legal disputes. The use of IMR to resolve medical necessity disputes outside the jurisdiction of the WCAB administrative judge may not support payment of copy service fees generated by an applicant's attorney related to provision of what may be duplicate records to Maximus for review. Likewise, regulatory clarification may be warranted to more clearly define what may be required to support billing of a sales tax.

The Institute will continue to monitor trends related to the volume, distribution, and cost of IMR applications and copy services, as well as any proposed changes to the copy service fee schedule regulations.

Appendix 1

Billing Code	Fee	Short Descriptor
WC020	**$180**	Flat Fee
WC021	**$75**	Cancelled Service
WC022	**$75**	Certificate of No Record
WC023	**10¢**	Per Page
WC024	**$20**	Records from EDD
WC025	**$30**	Records from WCIRB
WC026	**$5**	Additional Electronic Set, Ordered w/in 30 Days of Subpoena
WC027	**$30**	Additional Electronic Set, Ordered After 30 Days
WC028	**$10.26**	X-Ray & Scan Sheet
WC029	**$3**	CD of X-Rays & Scans

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