

# WISCONSIN HOSPITAL ASSOCIATION, INC.



## **Clearinghouse Rule 05-59 – Amendments to INS 9** **Testimony of Eric Borgerding, Wisconsin Hospital Association** Joint Committee for Review of Administrative Rules December 14, 2005

Chairmen Grothman and Gottlieb and members, my name is Eric Borgerding and I am senior vice president for the Wisconsin Hospital Association. I want to thank you for holding this hearing today on Clearinghouse Rule 05-59. We were not involved in the various negotiations and meetings OCI has had with “Wisconsin’s major insurers” regarding this rule, especially those provisions that apply directly to hospitals and other health care providers, so we appreciate the opportunity this hearing provides us to comment on the rule.

While this is a complex and lengthy rule, WHA and our members, some of whom you will hear from today, are very concerned with just one small portion. Section 9.32(2)(c), located near the bottom of page 24, would require preferred provider plans (PPPs) to include in all contracts with health care providers a provision requiring those providers to disclose to the PPP’s enrollees the name of each health care provider that may participate in an elective or non-emergency procedure, including surgery. Further, the rule would actually require hospitals, or more likely the nurse scheduling a surgery for a physician, to figure out if any of those providers that may be involved in the surgery are participating providers in the PPP.

WHA opposes this tongue-twisting portion of the rule for several reasons.

Hospitals cannot always know all of the providers who *may* participate in the delivery of care to the patient. Surgical patients, for example, might require different procedures and providers depending on the course of the surgery.

Further, the provision suggests that providers are better positioned than insurers to advise their members of the details of their policy. Hospitals cannot possibly know all of the contracts entered into by insurers and physicians, or the numerous other health care providers included in the rule. Hospital staff, including busy nurses, scheduling the appointment with the patient might not have current information about contracts that the patient’s insurer might have with various providers. An insurer would know whether it has a contract with a specific provider, and it should be incumbent upon the insurer to inform its enrollee whether there is a possibility that some providers might not be covered by the insurance plan sold to the enrollee.

Additionally, the rule would mandate what should be a negotiated contract term. It certainly is not clear that the proposed required contract provision is the best solution to the identified problem. It makes more sense for the insurer and providers to negotiate contracted solutions that best fit the particular circumstances of the community, provider, and insurer. In fact, as drafted, this provision may be counterproductive. Health care providers unable to comply with these burdensome requirements may simply refuse to contract with PPPs. And in fact, that is what is happening now.

Beyond this, we do not believe OCI has the authority to regulate providers. By requiring contracts between insurers and providers to include a specific term, OCI is regulating providers without the supporting statutory authority.

The primary role of a hospital, and the health care professionals who perform within its walls, is to provide care and comfort to patients, not sort through the myriad of insurance rules and regulations, decipher between HMOs, defined network plans or preferred provider plans and certainly not to assume the role of insurance plan administrator.

According to OCI, the agency charged with regulating insurance companies not health care providers, “this provision was developed with the participation of major Wisconsin insurers and has their support.” But for Wisconsin’s hospitals, operating 24/7/365, this requirement is, to put it mildly, unrealistic, and obviously developed without our input.

While some of “Wisconsin’s major insurers” may indeed support this burdensome transfer of responsibility, Wisconsin’s hospitals oppose it strongly.

Having said that, we know there is an ongoing need to improve the information available to consumers. Wisconsin’s health care delivery and financing system is in transition, becoming more consumer driven, with individuals being asked to take on more responsibility for if, when and how they access the system. The goal is, of course, to incentivize more prudent use of the health care, and ultimately more cost efficient and more effective/higher quality health care.

For this approach to work, individual consumers must have information. Reliable data about price and quality that when considered together, will aid employers and consumers in choosing not only the lowest cost/highest quality health care providers, but also which insurance companies can best facilitate access to that care.

For our part, Wisconsin hospitals have been at the forefront of this effort and have emerged as the recognized national leader in developing consumer friendly information about price and quality of hospital care. Indeed, our PricePoint and CheckPoint programs (information attached to my testimony) have gained national attention.

A recent article in *Hospital and Health Networks Magazine*, titled “WISCONSIN Ahead of the Pack”, proclaimed: “***Wisconsin is emerging as a national model for private-sector initiatives to meet demands for information on health care costs and quality.***”

In this same article, Paul Ginsberg, president of the Center for Studying Health System Change in Washington, D.C., stated that Wisconsin’s health care leaders are out in front on quality and transparency issues. According to Ginsberg, we aren’t “bucking the trends, (Wisconsin is) running with the trends.”

These nationally recognized and proactive efforts are the product of thoughtful deliberation and, most importantly, intense collaboration among health care providers and purchasers.

We believe there is a need for improving the information that flows between insurers and their enrollees --- insurers and our patients -- and WHA is in the process of engaging in a collaborative effort to look at realistic ways of doing just that, including what is the appropriate realistic role of a hospital. We encourage other health care providers to do the same.

This rule, on the other hand, falls far short of achieving that goal, and in fact will likely prove counterproductive. On behalf of our over 120 member hospitals, I urge you to reject this portion of the rule. I would be happy to try and answer any questions.