

# Welcome to Mcare's Carrier Meeting 2014

Radisson Penn Harris  
April 17, 2014

# INTRODUCTORY REMARKS

## ▶ Agenda /Speakers Today

- Dee McHugh – EFT Transactions
- Jason Riley & Sheilah Dorazio – Coverage
- Bob Waeger – Compliance
- PwC – Timothy Landick and David Kaye – MPL Forecast
- Lunch
- Todd Rittle – Trends Watch – Interactive Discussion
- Claims Update
  - Beth Persun – Leslie Luciew – Howard Lewis –  
Bob McDermott

# 2013 Recap



*Welcome to Government,  
Todd !*

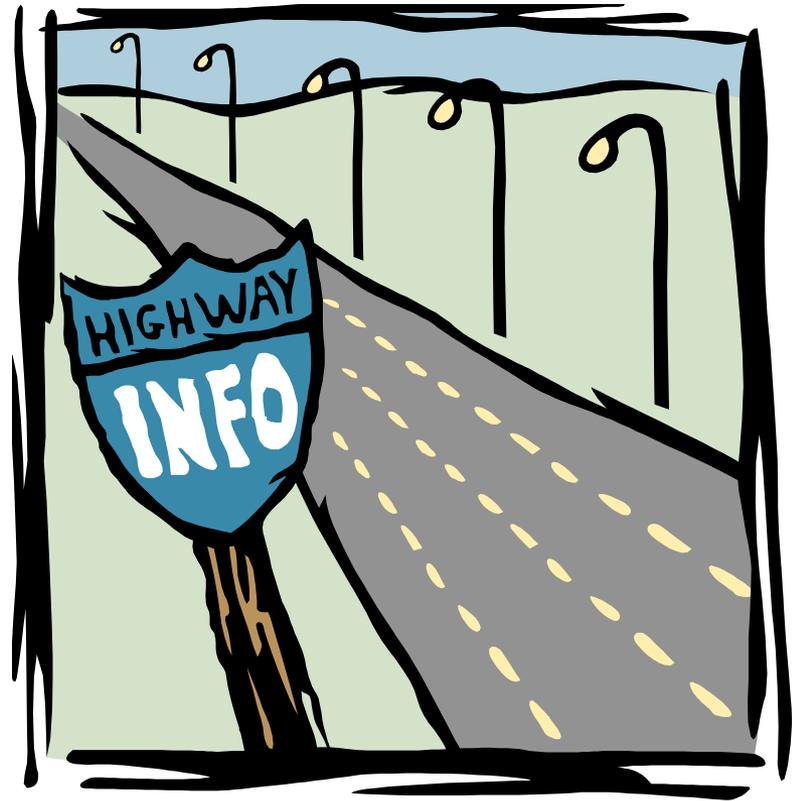
# 2013 Recap



*Penn State Eastgate Center  
1010 North 7<sup>th</sup> St., Suite 201  
▶ Harrisburg, Pa 17102*

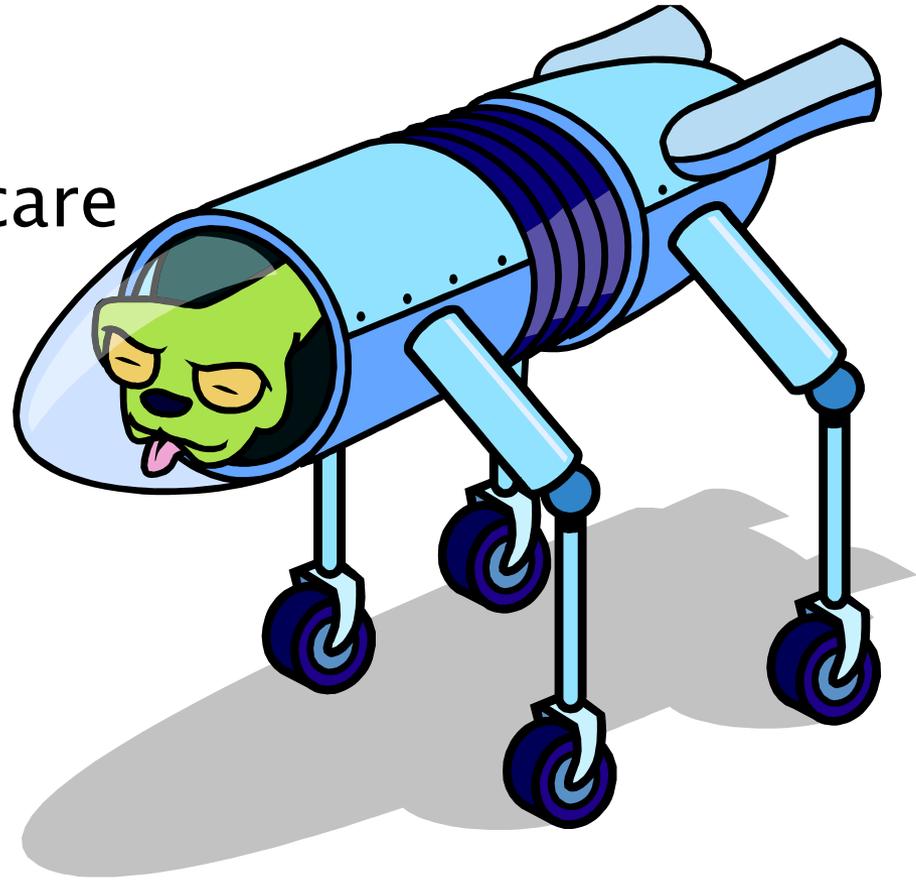
# 2013 Recap

- ▶ Tour de State 2013



# 2013 Recap

- ▶ Automating Mcare



# 2013 RECAP

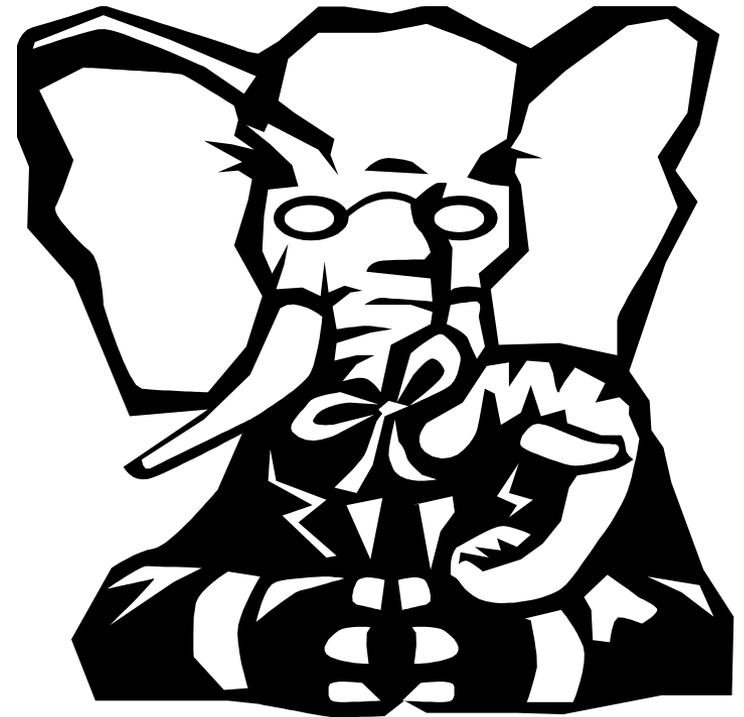
## ▶ Automating Mcare

- E-216's
- DocuShare
- ACH/EFT
- C-416 – Web Form Development
- New RMIS – hopefully 2014, likely 2015

# 2013 RECAP

## ▶ NUMBERS

- Claim Payments Holding the Line
- Trial Results
- Primary Limits – \$500K



# Here We Go!



# Electronic Funds Transfer

Dee McHugh

# Electronic Funds Transfer (EFT)

- ▶ Electronic Funds Transfer – The electronic exchange or transfer of money from one account to another, either within a single financial institution or across multiple institutions, through computer-based systems through the Automated Clearing House (ACH) Network
- ▶ EFT is similar to direct deposit
  - Two types:
    - ACH – processes overnight similar to a check
    - Wire – same day

# EFT

- ▶ New payment and processing rules instituted in 2013 to accept EFTs
- ▶ Schedule an EFT payment instead of relying on the timing of your pick and delivery by the Post Office or messenger service
- ▶ Eliminate the risk of lost, stolen, misdirected or returned checks
- ▶ Save time and costs associated with the manual process of issuing and tracking paper checks

# EFT

## Program Highlights

### Phase 1

6 Participated in Pilot – April 2013

Initially, only ACH payments were accepted

### Phase 2

10 Additional in Pilot – July, 2013

Began to also accept wire transfers

### Phase 3

Go Live date for all remitters – Fall 2013

# EFT

## Program Measures to Date

1,800 payments processed since April 2013  
\$240 Million in assessments

300 EFT payments processed to date  
\$80 Million in EFT payments

33% – 40% of total assessment remitted by EFT  
85 % by ACH  
15 % by Wire

Range of EFT's submitted to date \$12.00 to \$21,000,000.00

# EFT

## ▶ Payment Process

- Onboarding Process – Provide instructional guidance until the correct procedures are consistently remitted
  - Acknowledgement will be sent by Mcare of EFT payment
- For each remittance, you may choose which payment process best suits your business needs at that time
  - Issue a check for one payment
  - Issue an EFT payment for another

## ▶ e-216s

- Revised e-216 posted to web, starting with 2002 to 2014
  - Sheilah Dorazio will cover these revisions during her presentation
    - 3 major changes related EFTs

# EFT

## Date of Receipt

- ▶ PA Treasury Department's documented date of receipt is the "Effective Date" requested by the "Sending Company"
- ▶ For purposes of calculating the 60 days
  - Mcare's date of receipt will be the same as Treasury's documented receipt date
  - Mcare will continue its practice of documenting receipt of check payments on the next Commonwealth work day following a holiday
- ▶ It is important to know your bank's lead time for scheduling an EFT payment.

# EFT

- ▶ In closing, Mcare strongly encourages remitters to consider their option to utilize EFT payments through the Automated Clearing House Network
- ▶ **INTERESTED IN EXPLORING EFTs?**
- ▶ **Dee McHugh | EFT Administrator**
- ▶ **PA Insurance Department | Mcare Fund**
- ▶ 1010 N 7th St Suite 201 | Harrisburg, PA 17102
- ▶ Phone: 717.783.3770 x213 | Fax: 717.705.7341
- ▶ Personal E-mail: [dmchugh@pa.gov](mailto:dmchugh@pa.gov)
- ▶ EFT E-mail: [ra-in-mcare-exec-web@pa.gov](mailto:ra-in-mcare-exec-web@pa.gov)

# Mcare

## Coverage Discussion

Sheilah Dorazio  
Jason Riley

# Coverage Discussion Topics

- ▶ 2014 Form e-216
- ▶ Reporting Procedures
- ▶ Bifurcation
- ▶ Facilities in Multiple Territories

# 2014 Form e-216

New Subject line including <To:Mcare216>

Copy the subject line from cell H9, click on the link in cell H8 which will open up an email then click paste in the subject line of the email

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	S	U	V		
1							<b>2014 REMITTANCE ADVICE (FORM e-216)</b>							Carrier Code	999	Receipt Date						
2		216 Date: 3/5/14 11:33 AM					For remitting coverage that inception or renewed in 2014 only							Check/EFT #	12345	Transaction Count	1					
3							ABC INSURANCE COMPANY 999							Check / EFT Amount	\$11,840.00	Coverage Specialist						
4	Related Lic. #:						Jane Doe 123 Harrisburg Blvd Harrisburg PA 17109									Contact Code						
5	Entity Name						717-123-4567							Assessment Total	\$11,840.00							
6							717-987-6543							Beginning Crdt Bal	\$0.00	From e-216 dated:						
7							Jane.Doe@AIC.com							Crdt Bal Used	\$0.00							
8							Email completed e-216 to: <a href="mailto:ra-in-remittance@pa.gov">ra-in-remittance@pa.gov</a>							Ending Crdt Bal	\$0.00	To e-216 dated:						
9	Correcting:	Previous 216 Date					999 Official e-216 03/05/14 Check/EFT No. 12345 <To:Mcare216>							Amount Due	\$11,840.00							
10	License #	Name Last, First, M.I.	From Date	To Date	Cancel Date	Retro Date	Carrier's Policy #	Policy Type	F.T.E. Factor	Part-Time Resident/Fellow/ New Doctor	Policy Modifier	County Code	Specialty Code	Primary Carrier's Premium	Prevailing Primary Premium	Full Assessment	Remitted Assessment	Comment	Related License #			
11	MD123456	Smith, Robert A	01/01/14	01/01/15			987654	OC	1.000	F	N	51	03531	\$	51,478.00	\$	11,840.00	\$	11,840.00	Rnwl		
12														\$	-	\$	-	\$	-			

# MCARE

## Reporting Procedures



# e-216 Heading Information

## Submitting Multiple e-216's for one e-mail submission



# One e-216 as a debit/One e-216 as a credit Utilizing existing credit balance

Carrier Code	999	Receipt Date	
Check/EFT #	12345	Transaction Count	1
Check / EFT Amount	\$5,266.00	Coverage Specialist	
		Contact Code	
Assessment Total	\$11,840.00		
Beginning Crdt Bal	(\$2,500.00)	From e-216 dated:	02/27/14
Crdt Bal Used	\$2,500.00		
Ending Crdt Bal	\$0.00	To e-216 dated:	
Amount Due	\$9,340.00		

Carrier Code	999	Receipt Date	
Check / EFT #	12345	Transaction Count	1
Check / EFT Amount	\$5,266.00	Coverage Specialist	
		Contact Code	
Assessment Total	(\$4,074.00)		
Beginning Crdt Bal	\$0.00	From e-216 dated:	
Crdt Bal Used	\$0.00		
Ending Crdt Bal	(\$4,074.00)	To e-216 dated:	
Amount Due	(\$4,074.00)		

# Multiple e-216's All resulting in a credit

Carrier Code	999	Receipt Date	
Check/EFT #		Transaction Count	1
Check / EFT Amount		Coverage Specialist	
		Contact Code	
Assessment Total	(\$2,984.00)		
Beginning Crdt Bal	\$0.00	From e-216 dated:	
Crdt Bal Used	\$0.00		
Ending Crdt Bal	(\$2,984.00)	To e-216 dated:	
Amount Due	(\$2,984.00)		

Carrier Code	999	Receipt Date	
Check/EFT #		Transaction Count	1
Check / EFT Amount		Coverage Specialist	
		Contact Code	
Assessment Total	(\$11,887.00)		
Beginning Crdt Bal	(\$2,984.00)	From e-216 dated:	
Crdt Bal Used	\$0.00		
Ending Crdt Bal	(\$14,871.00)	To e-216 dated:	
Amount Due	(\$11,887.00)		

# Multiple e-216's each resulting in a credit where a previous credit balance exists

Carrier Code	999	Receipt Date	
Check/EFT #		Transaction Count	1
Check / EFT Amount		Coverage Specialist	
		Contact Code	
Assessment Total	(\$13,834.00)		
Beginning Crdt Bal	(\$2,500.00)	From e-216 dated:	03/01/14
Crdt Bal Used	\$0.00		
Ending Crdt Bal	(\$16,334.00)	To e-216 dated:	
Amount Due	(\$13,834.00)		

Carrier Code	999	Receipt Date	
Check/EFT #		Transaction Count	1
Check / EFT Amount		Coverage Specialist	
		Contact Code	
Assessment Total	(\$7,171.00)		
Beginning Crdt Bal	(\$16,334.00)	From e-216 dated:	
Crdt Bal Used	\$0.00		
Ending Crdt Bal	(\$23,505.00)	To e-216 dated:	
Amount Due	(\$7,171.00)		

# e-216 Heading Summary

## Multiple e-216's for one e-mail submission

- ▶ Transfer the credit balance forward to each e-216 in a single submission
- ▶ The last e-216 should show the new credit balance if applicable
- ▶ When adding up all the “Amount Due” fields from each e-216 in the submission it should equal the total submission amount

# Reminders when submitting e-216's

- ▶ Each e-mail submission should have a different e-216 date
- ▶ Make sure your subject line is correct and includes the carrot at the end <To:Mcare216>
  - Copy and paste the subject line from Cell H9 of the e-216
- ▶ Complete the “check/EFT #” and “check amount” fields in the heading of the e-216 when applicable
  - If no check is due leave cells Q2 and Q3 blank

# Reminders when submitting e-216's (cont.)

- ▶ When summing the “amount due” field(s) it should equal your submission total
- ▶ Add carrier code on your check
- ▶ Do not recall any official e-mail submissions

# Bifurcation



40 P.S. 1303 §712 (i) of Act 13 states,

“Change in basic insurance coverage.

---If a participating health care provider changes the term of its medical professional liability insurance coverage, the assessment shall be calculated on an annual basis and shall reflect the assessment percentages in effect for the period over which the policies are in effect.”

# Bifurcation

- ▶ Allows only 12 months maximum at the same assessment rate for the year in which the policy effective date was changed
- ▶ Mcare will consider the assessment for the second portion of a bifurcated assessment as being timely remitted when paid to Mcare within 60 days of the beginning date of the second portion of the bifurcated period
- ▶ Remember, bifurcation divides the payment of the assessment; it does not divide the coverage

# Bifurcation

To bifurcate the assessment into two parts you always break it up from the effective date to Jan 1 of the following year and then Jan 1 to the expiration of the policy.

Effective Date – January 1

(Part 1 at current year's rates)

January 1 – Expiration Date

(Part 2 at following year's rates)

# Example 1

- ▶ Dr. Jones had a policy from 1/01/14–1/01/15. She cancelled on 08/01/14 and purchased coverage with another carrier
- ▶ The new carrier is going to write a policy from 08/01/14–8/01/15
- ▶ The assessment year in which the coverage dates changed is 2014



# Example 1 (cont.)

- ▶ The Mcare assessment rate paid on the 1/01/14–08/01/14 policy was a 2014 rate
- ▶ If the 2014 rate is paid on the 8/01/14–08/01/15 coverage also, that would be more than 12 months (19 months) at the 2014 rate, therefore, the new policy's assessment must be bifurcated (divided into two parts)



# Example 1 (cont.)

- ▶ In this example, the bifurcated coverage should be reported as follows:

08/01/14 – 1/01/15

(Part 1 at 2014 rates)

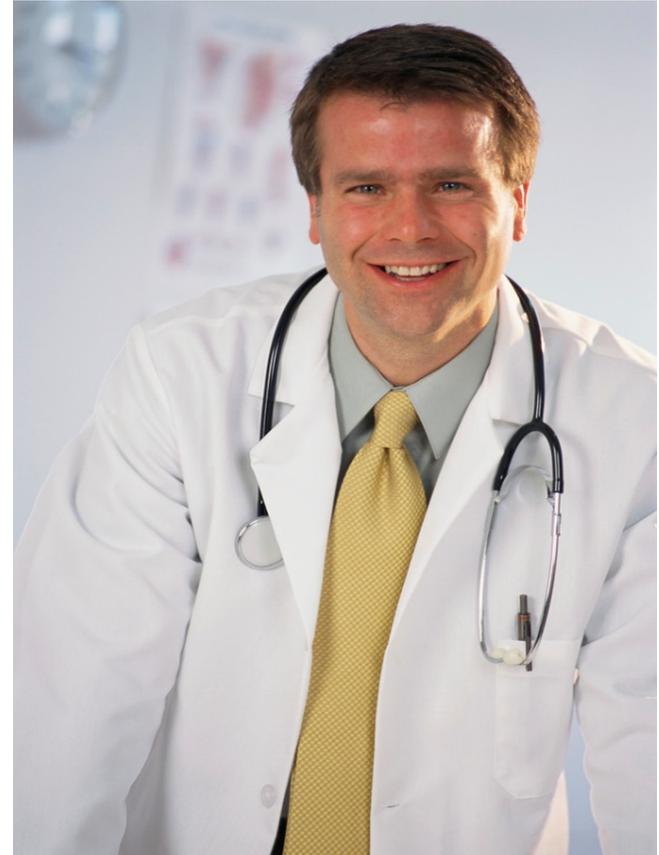
1/01/15 – 8/01/15

(Part 2 at 2015 rates)

- ▶ The year AFTER a bifurcation usually results in more than 12 months of the same assessment rate

# Example 2

- ▶ Dr. Smith had a policy from 12/12/13–12/12/14. He cancelled on 12/01/14 and purchased coverage with another carrier
- ▶ The new carrier is going to write a policy from 12/01/14–12/01/15
- ▶ The assessment year in which the coverage dates changed is 2013



# Example 2 (cont.)

- ▶ The Mcare assessment rate paid on the 12/12/13–12/01/14 policy was a 2013 rate
- ▶ The assessment rate paid on the new 12/01/14–12/01/15 policy will be the 2014 rate



## Example 2 (cont.)

- ▶ The change does NOT result in more than 12 months at the same assessment rate (11 months of 2013 and 12 months of 2014)
- ▶ Therefore, the new policy does NOT need to be bifurcated

# Bifurcation

- ▶ Allows only 12 months maximum at the same assessment rate for the year in which the policy effective date was changed
- ▶ Any health care provider joining or leaving an existing master/group policy does not need to have their coverage bifurcated
- ▶ When reporting the 1<sup>st</sup> half of the bifurcation from the Effective Date – January 1 please use comment code BIF1
- ▶ When reporting the 2<sup>nd</sup> half of the bifurcation from January 1 – Expiration Date please use comment code BIF2

# Facilities in Multiple Territories



# Health System Trends

- ▶ Independent hospitals, family practices and groups are being acquired by larger health care organizations
- ▶ Partnerships and affiliations are being created
- ▶ New hospitals are being opened
- ▶ Major innovation and technologies are being offered

# Facilities

- ▶ Some facilities are choosing to have multiple locations under ONE Department of Health license
- ▶ Facilities that have multiple locations in multiple territories under one license may rate their exposure under multiple territories

# Calculating the Assessment for Facilities in Multiple Territories

- ▶ Complete a worksheet for each territory in which the beds reside and in which the visits occurred
- ▶ Add the remitted assessment totals from each worksheet and add one line on the Form e-216 with the total assessment due
- ▶ Complete one Hospital Roster

# *Compliance*

*Bob Waeger*

# *Authority for Compliance Program*

## Act 13-40 P.S. §1303.711(c)

- (c) **Failure to provide proof of insurance.**--If a health care provider fails to submit the proof of insurance or self-insurance required by subsection (b), the department shall, after providing the health care provider with notice, notify the health care provider's licensing authority. A health care provider's license shall be suspended or revoked by its licensure board or agency if the health care provider fails to comply with any of the provisions of this chapter



# *Compliance Program*



- ▶ In the wee early morning hours, every Tuesday, Mcare's computer talks to BPOA's computer

# *Compliance Program*

- ▶ Mcare's computer gets:
    - Name
    - License:
      - Number
      - Issue Date
      - Certification Date
      - Expiration Date
    - Address
    - Date of Birth
- of every MD, OS, DPM & CNM



# *Compliance*

## Exemptions

- ▶ Physicians who exclusively practice the specialty of forensic pathology.
- ▶ A participating health care provider who is a member of the Pennsylvania military forces while in the performance of the member's assigned duty in the Pennsylvania military forces under orders.
- ▶ A retired licensed participating health care provider who provides care only to the provider or the provider's immediate family members.
- ▶ Not Practicing
- ▶ Deceased

# Compliance

## Definitions

- ▶ **"Health care provider."** A primary health care center or a person, including a corporation, university or other educational institution licensed or approved by the Commonwealth to provide health care or professional medical services as a **physician, a certified nurse midwife, a podiatrist, hospital, nursing home, birth center** and, except as to section 711(a), an **officer, employee or agent** of any of them acting in the course and scope of employment.

# *Compliance*

## Not Mcare Eligible

- ▶ Dentists
- ▶ RN, CRN, CRNA
- ▶ Physician Assistants
- ▶ Chiropractors
- ▶ Optometrists
- ▶ Psychologists
- ▶ Genetic Counselors



# *Compliance Program*

## Professional Corporations or Partnerships



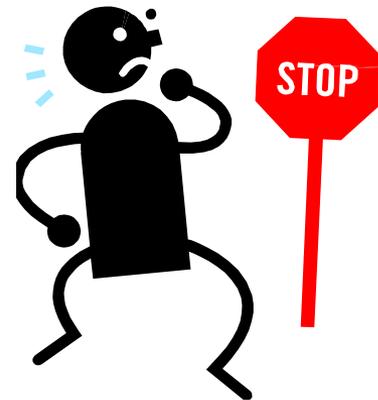
- ▶ Entirely owned by HCP
- ▶ Obtain “basic insurance coverage”
- ▶ 15% of assessment for all HCPs employed or with an ownership interest
  - Entity TYPE must have existed on 11/26/1978
  - No LLC’s

# *MEDICAL PROFESSIONAL LIABILITY BRACING FOR CHANGE*

- ▶ **PRICEWATERHOUSE COOPERS (PwC)**
  - Actuarial and Insurance Management Solutions
    - Timothy J. Landick, FCAS, MAAA – Director
    - David Kaye, FCAS, MAAA – Director
  
- ▶ **See Separate PDF For PwC Slides.**

# *ICD-10 DELAY IS NOW OFFICIAL*

- ▶ Announced April 3, 2014
- ▶ Obama Administration delayed implementation of ICD-10 for a year
  - Reported by Physicians News Digest



# *MPL TRENDS WATCH*



## ▶ Rules of Presentation

- Interactive conversation
- Please use microphone which we will bring to you



# *MPL TRENDS WATCH*



## ▶ TOPIC LIST

- Reinsurance Rates
- Drug Shortages
- Stent Claims – CD Today / Rad Tomorrow?
- Arbitration Clauses
- Benevolent Gestures
- Physician Practice – Employed vs. Not Employed
- E-Discovery/ Lit. Technology/ Phila CCP Video
- Telemedicine
- Big Verdicts
- ACA – segue to Beth

# DRUG SHORTAGES

- ▶ Current Shortage of 243 Drugs
  - ASHP Current Shortages List
  - <http://www.ashp.org/drugshortages/current>
  - Only 3 from 2013 – the rest just this year
- ▶ INCLUDED:
  - Nitroglycerin
  - Several Antibiotics like Vanco, Cipro, & Clindo
  - Heparin
  - Anesthesia Drugs like Succinyl Choline and Propofol
  - Painkiller – Fentanyl
- ▶ Thoughts? Experiences in Litigation?

# *MPL TRENDS WATCH*

- ▶ **STENT CLAIMS**
  - Cardiology Today – Radiology Tomorrow?
- ▶ **ARBITRATION CLAUSES (Pre-Treatment)**
  - Level of Use
  - Involvement of Courts – Upheld?
- ▶ **BENEVOLENT GESTURES – Act 79 of 2013**
  - Past Experience – Plt Atty’s Response
  - Has anyone seen cases? Too Soon?

# *MPL TRENDS WATCH*

- ▶ **PHYSICIAN PRACTICES**
  - Employed vs. Independent
  - Pendulum Swing – as high as 90%?
  - Recent Moves Away from Employment
- ▶ **E-Discovery/EMR Technology**
- ▶ **Phila CCP Video – Webinar Settlement Conferences**



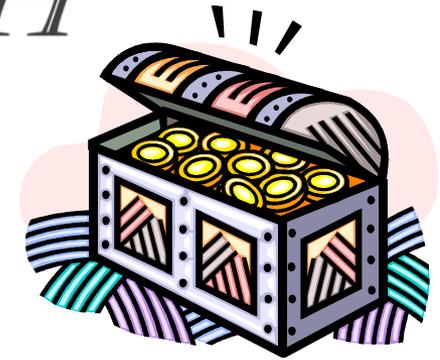
# MPL TRENDS WATCH

## ▶ TELEMEDICINE

- Increased Use Western PA and Rural
  - How about Phila?
  - Stroke Networks
- National Service with Local Providers
- Liability Exposures in Other States
- Coverage Territories
- Terms & Conditions / Exclusions
- Mobile Devices
  - Apps – pacemaker, CPR, etc.



# *MPL TRENDS WATCH*



## ▶ **BIG VERDICTS**

- \$43M – Phila – Infant
- \$59M – Lehigh Valley – Infant
- \$5.1M – Montgomery – Brain Injury after Meds
- Return of Troubling Trend?
- Outer Counties experience
- Effect of Act 13 Damages Clauses
  - Verdict Sheet line-by-line
- Effect on Hi-Lo Agreements

# *MPL TRENDS WATCH*



## ▶ Affordable Care Act

- Damages – structured premiums to pay future meds
- Impact OF Medicare ///or Impact ON Medicare

## Medical liability and health care reform

<http://www.ncbi.nlm.nih.gov/pubmed/22145523>

## Medical Liability, Collateral Source Rules & the Affordable Care Act – Avalon Health Economics

<http://www.avalonecon.com/medical-liability-collateral-source-rules-the-affordable-care-act-blog-no-14/>

# *MPL TRENDS WATCH*

## The Disappearing Provision: Medical Liability Reform Vanishes From The Patient Protection and Affordable Care Act Despite State Court Split

Rafael Andre Roberti *American University*  
*Washington College of Law*

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1040&context=lpb>

# Mcare Carriers Meeting Claims Administration

Beth Persun  
Leslie Luciew  
Howard Lewis  
Bob McDermott

# Discussion topics

- ▶ Verdicts/settlements the past few years
- ▶ Future medical damages, liens, delay damages and ACA
- ▶ Alternative dispute resolution update
- ▶ Negotiation dialogue between carriers
- ▶ Recent case law affecting litigation and damages
- ▶ Claim Year 2013 results

# Verdicts / Settlements

Verdicts 2014 (98 days)

- ▶ Highest thus far – 33M

2013: 55M

2012: 78.5M of which 64M future medicals

2011: 10M

2010: 20M

2009: 20M

2008: 18M

2007: 23M

# Verdicts / settlements

- ▶ Number of filings are down / defense verdicts % high

AOPC 2012: 1508 /

AOPC 6/2013: 78.5%

- ▶ Driven by future medical damage computations
- ▶ Pretrial demands are high – more high/low agreements during trial yet verdict publicized
- ▶ Arbitration results seem to be rising in amounts awarded

# Future medical damages

- ▶ Present value can be extremely high when calculated on yearly basis
- ▶ Payable regardless of actual need after awarded
- ▶ Reductions for life expectancy or death
- ▶ Delay damages in addition to present value (?) and plaintiff's arguments on atty fees

# Liens

## Challenging issues for plaintiff and defense

- ▶ Medicare
  - potential transfer C.C.P. to federal court (H.R. 4106)
  - Qui Tam suit (NY) against 50 insurers
  - Establishing date of incident reported to CMS
- ▶ Federal exchanges are not federal health plans according to HHS
- ▶ Medicaid and ERISA

# ACA and future medicals

- ▶ Insurance for basic benefits is required with no lifetime limit and cap on out of pocket expenses
- ▶ LC plans should separate expenses by covered vs non-covered under ACA and use of fee schedules (not yet)
- ▶ Defense may propose guarantee to purchase insurance at highest permissible levels
- ▶ Nursing/home care less medicals still recoverable

Premium Cost of Medicals Insured = Recoverable

# ACA and HC delivery

- ▶ Paraprofessionals treating more patients and greater span of illnesses
- ▶ Health care by teams expansion eroding physician/patient relationship
- ▶ Medical liability reform to match changes in delivery– medical panels, liability reform efforts (H.R. 4106)

# ADR

- ▶ Mediation and Arbitration frequency
- ▶ Arbitration increasing
- ▶ Results seem fair to all participating
- ▶ Arbitrators and mediators
- ▶ Trial high/low agreements

# Negotiation process

- ▶ Communication with all defense is key
- ▶ Carriers representatives involved earlier
- ▶ Think hard before JTF – whether initiator or recipient

# Case law

- ▶ Expansion of wrongful life/death
- ▶ Expansion of wrongful death – advise and companionship
- ▶ Preconception tort ruling
- ▶ Mcare defense and indemnity limitations

# 2013 Claim Year

- ▶ Results
- ▶ 414 claims/295 cases
- ▶ \$193,902,777/\$600,313,000
- ▶ Average case severity –\$659,533
- ▶ East–55%/West–23%/Central–22%
- ▶ Trials followed by calendar year – 950–1,000

\* \* \*

End of Mcare Presentation