Auto Casualty, Workers' Comp

2022 Midterm Elections – Takeaways That Will Impact Comp and Auto in 2023

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29 MIN READ
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It’s been a month since the midterm elections, and while most Americans, except for Georgians, enjoyed a break from political ads, it took a little longer for every vote to be counted to determine the balance of power at the state and federal levels. Back then, Enlyte regulatory experts offered their insight on how the immediate election results may impact our industries. Be sure to check out that interview in the *2022 Enlytened Trends Report*.

Tom Kerr (TK): But now that the Georgia runoff has been completed and all the votes have been counted. We invited those regulatory experts back to give us an update. Joining me today is Michele Hibbert, Mitchell's senior VP of regulatory compliance management, Brian Allen, Mitchell's VP of government affairs, and Lisa Anne Bickford, Coventry's director of government relations. Thank you all for coming.

OK, let's dive in. Since we published the *Enlytened Trends Report* article in November, were there any surprises that occurred from the days following election night to now? Michele, let's start with you.

Michele Hibbert : One of the biggest surprises for us going into the elections was a review of Michigan and the feeling that we were still going to have a Republican majority in the House, Senate, and a Democratic governor. And that didn't occur. So, what happened in Michigan is now Democrat governor, Democrat House and Senate.

And so, with that comes different agendas and different changes. We've talked about it many times before, it also affects the knowledge base of the people that have been elected into office, there's the newbies and bringing them up to the ranks and, sort of, educating them in property and casualty, particularly no?fault which is our biggest concern in Michigan. So, we're looking for reform. We're looking for changes. We're looking for modifications to carry Michigan as a result of the switchover to being all Democrat.

It's likely the governor will get more done on her agenda. Property and casualty is probably not at the top of the list. There are other concerns internally in the state of Michigan, but we will probably start to see it as they start to mature in the legislature.

I don't know how you guys feel about it, Brian or Lisa, but that seems to be the word on the street right now.

Brian Allen : Yeah, Michele, I think you're right about Michigan. I think, potentially, some changes to the reforms have taken place in the last couple of years. I think nationally, though, as far as surprises go, I guess I'm surprised that things didn't change all that much.

Just the angst that seemed to be reflected in pre?election polling, it seemed like people were ready for a change but, as it turns out, they really stayed with the status quo. There was a shift in control at the federal level in the House, but it's still a very slim majority. So, it wasn't much of a shift.

I think every incumbent senator that was running for re?election won their election, so no one got ousted, which was surprising. And if you look at the state legislatures, which is something that we care a lot about because that's where a lot of the workers' comp and auto policy is done, the red states got a little redder, the blue states got a little bluer.

Pennsylvania split, which was surprising for the most part, though, there wasn't a lot of shift. The one thing I will say, and Lisa might hit on this a little bit, too, is that there are a lot of new legislators.

So, there's going to be a lot of educational effort on the part of lobbyists to bring them up to speed on workers' comp and auto issues so that they understand what they're wrestling with when bills come before them.

Hibbert: I agree with you and I wanted to see what your opinion is, also, on the runoff voter in Georgia for the Republican Party. I actually think the delay played against the Republican Party in that state because of the media, and. that's been reported that the anti?Trump behavior or news affected that outcome of that race.

Allen: I would say that I'm kind of surprised it was as close as it was, honestly. I thought Sen. Warnock would run away with it a little more given just the dynamics of the race and the rhetoric around the candidates.

You know, part of the challenge the Republican Party's had is in questioning the integrity of elections. And, I think it creates a less enthusiastic feeling amongst their base people think, "well, my vote doesn't matter. The election's going to get stolen anyway." So, I think a lot of that rhetoric is ill?founded and misguided and I think that hurt the GOP in a lot of races around the country in the general election and surely in Georgia.

"You know, part of the challenge the Republican Party's had is in questioning the integrity of elections. And, I think it creates a less enthusiastic feeling amongst their base if people think, 'well, my vote doesn't matter. The election's going to get stolen anyway."

-Brian Allen

Clearly, there was a lot of rhetoric around Georgia's voting law, but it looks like there was a record turnout. So, I'm not sure that all the voting rhetoric and voter suppression rhetoric is really helpful to either party. It certainly seems to cut worse for Republicans because they seem to be the most vocal about it, and I think that was part of the problem. You're seeing an erosion of the luster of Trump amongst the electorate. If you look across the country, Trump?supported candidates did not fare well at the state level.

TK: I'm glad we're digging into the Georgia runoff. When we put out the Trends Report a few days after the election, Georgia was one of three states that hung in the balance. Arizona and Nevada were the other two undecided. Were you surprised that all three of them went blue?

Allen: I wasn't. I expected it. In some ways I was surprised it was as close as it was given the quality of and rhetoric around the candidates and the rhetoric from the candidates. There's handwriting on the wall. Whether or not people in the Republican Party want to read that handwriting you know, [laughs] it's up to them. But I think, generally, there's a message there that it's really time for the Republican Party to move on to a new generation of candidates at the national level for sure. And especially for the 2024 election.

Hibbert: I agree with you, Brian. I think Nevada was a slap in the face and a wake?up call to them, especially with the movement of what's happening here in California to the other states. There's somewhat of an effect from moving people from a very liberal state to states that are not because they want that atmosphere, and it did not have the effect, I believe, in Nevada that they thought it would.

TK: Now that Georgia has been decided, is it really significant that Democrats having a one-Senator advantage without having to worry about tiebreakers when Senate votes follow party lines?

Hibbert: That's a two?parter, really, because the agenda for those types of numbers really revolves around who gets on the Supreme Court and, because they will vote in numbers in support of nominees on the Democratic Party for sure.

Because of the mix of characters [laughs] that we have now in the Senate and the House, we're going to see, I think, battles on the floor and it's going to be harder to push things through. I don't think it's going to be 100 percent party line. That's just my opinion based on some of the Democrats who are sort of quasi-conservative as well. I think it's going to be a very interesting time for the next two years.

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-Michele Hibbert

Allen: Yeah, there is some nuance in the Senate. Under the 50/50 arrangement that we have currently, there was a more cooperative arrangement around committee structure, committee chairmanships, that type of thing. Now that the Democrats have an outright majority, those cooperative arrangements aren't necessary and they'll go away. So, it'll give the Democrats more control over what happens in their committees than they've had previously. I think from a fundamental standpoint, though, it's still close enough with the filibuster rule that they're still going to have to find ways to compromise and work together.

And, I don't know that you're going to see a radical shift in legislative outcomes. But what you will see is, and what matters to a lot of people inside the Beltway are, the machinations of the committees and how they work, and what they look at, and what they investigate, and what they talk about. And that will change.

And, to Michele's point, there are senators who are in close states that are going to be up for reelection in 2024. So, they're going to have to be wary of how they respond to some of the things that go on to make sure that they stay in step with their electorate. So, it will be interesting to see.

TK: So, Lisa Anne, when I interviewed you for our Trends Report soon after the midterm election, you had mentioned that a Republican-controlled House could impact efforts to pass federal legislation on marijuana legalization. Now that we know the Republicans have taken the house by a slim 10-person majority, do you still see it that way?

Lisa Anne Bickford: I do. And, since we brought up the cannabis topic, I'd like to talk about what's going on now, and we have not even switched over yet to the Republican?controlled House.

Recently, there was a bipartisan group working in the Senate in Chuck Schumer's office, trying to come up with a deal to get the three aspects of the cannabis legislation, which were the SAFE Banking Act that relates to having a way to process banking transactions in cannabis through the federal banking system.

There's also the so?called HOPE Act, which would have created expungements at the state level. There's been a lot of discussion about that, because the wranglings before focused on expungements at the federal level. I know Brian has talked a lot about there's not many convictions that are federal, so that wasn't really super helpful. So, this HOPE Act was supposed to address that issue.

And then, the third piece, was this GRAM Act, which would have protected marijuana users' rights to own a firearm. So, there were efforts to take those three things and put them together and tack them on to the National Defense Authorization Act or the NDAA. That is currently still under discussion in the Senate.

And it looked like the bipartisan group had sort of taken those three aspects and put them together, and sort of agreed at least as to a concept. But, unfortunately, or fortunately depending on your point of view, Sen. Grassley from Iowa expressed some concerns over enforcement of the banking provisions in the SAFE Act. And then Sen. Mitch McConnell attacked the Democrats for trying to tack this on to the defense bill. And, quite frankly,

after Mr. McConnell's comments, even those Republicans who had been backing the efforts in the Senate kind of backed away from it.

So, I guess what I would say, Tom, is if we can't even get the thing passed before we have a Republican?controlled House, I think the chances of that happening once we have a Republican?controlled House are extremely slim. The House passed the SAFE Act six times when it was Democratic?led, but it never made any progress in the Senate.

But, Brian, if you have some thoughts on this, I'd love to hear them.

"If [marijuana legalization] can't get passed before we have a Republican ?controlled House, I think the chances of that happening once we have a Republican ?controlled House are extremely slim."

-Lisa Anne Bickford

Allen: You really captured what's happening at the federal level right now very well. There's a lot of behind?the ?scenes negotiating on those marijuana provisions. At first, it looked like they were kind of a slam dunk. But as time has worn on, the appetite for those being attached to the defense spending bill has waned.

So, it'll be interesting to see how negotiations go. They need to finish it up, Dec. 16 is the cutoff date for funding for the federal government. So, they've got a lot of work to do between now and then. And I think if this starts hamstringing their efforts to get a deal done, they'll probably just take it out and push it to the next year.

Bickford : Yeah, that's what I think as well. I had read that Sen. Rand Paul is still sort of holding out hope to have a standalone vote on the SAFE provisions only in the Senate before year-end. But that is extremely unlikely. As Brian mentioned, the chances of that getting through and being viewed as a priority before year-end is very unlikely.

Also, as Brian mentioned, Dec.16 is the deadline for the federal government's budget negotiations. They are now saying that most likely there is going to be either one stopgap measure or perhaps a couple that may even spill us over into next year.

And, of course, once things change over after Jan. 1, well … that's a whole other discussion. But I just don't think the appetite is there to get it through.

Hibbert: I agree 100 percent with what you said, Lisa., I don't think it's there at all. And there's too many other things in front of it right now.

TK: So, in general, you think federal lawmakers missed their opportunity to pass marijuana legislation with a Democratic-controlled Congress. Will this effort be dead in the water as we head into 2023?

Hibbert: Classically, it hasn't voted well with Republican domination. There are other things that they want to get done other than this. So, it's my opinion at this point, where it originates is not going to be a high priority for the House. And, Brian, you may have other thoughts on that.

Allen: Oh yeah. I actually don't think it's going to harm its chances as much as it might have in years past. So, the Moore Act that passed the House this year passed with bipartisan support, there were a number of Republicans who signed onto that legislation. And I think the number was enough that, even with the switch in control there, there were enough votes to carry it through.

I think the other thing you have to look at is what's happening with ballot initiatives around the country in red states on marijuana — they're passing, and they're passing overwhelmingly. Not in every state, but in a lot of the red states marijuana is acceptable. And I think you're going to see a lot of the Republicans now have more of a libertarian bent. Some of the younger, newer ones coming into elected office. And that would tend to indicate that they would be less likely to regulate marijuana at the federal level and more likely to support descheduling it so that it could be regulated at the state level.

And, I think the Supreme Court is kind of waiting in the wings to rule on a case if Congress doesn't act. They had an opportunity to act on the case and they deferred based on a brief filed by the Biden Administration saying, "Hey, look. This is an active topic in Congress. A lot of the states are still working through their laws." And so, the Supreme Court deferred making a decision because they knew there was pending congressional action. I think [legalization] still stays in play. I don't know if it's going to be a top priority or a high priority, but it's going to be one of the things that people are working on behind the scenes.

Given all the discussion around the budget bill and those efforts, my guess is that if it comes out of the Defense Act bill there's probably going to be some side deal that's going to come up in the next year and something's going to happen with it. And, I think it'll pass. I think, ultimately, we have to because with the conflict between state and federal law, I can't imagine Congress coming in now and telling all the states that have passed marijuana legalization, "Uh, we're going to undo all that," and disrupt a huge source of tax revenue for those states and disrupt a whole bunch of small businesses that have been formed around the industry.

And, whether you like marijuana or not, it's here to stay. I just don't see it going away and I think Congress, ultimately, is going to resolve the conflict. And if they don't, the court will. It's just a matter of time.

Hibbert: I agree with you on those points that you're making, and I actually have a tendency to pay more attention to the state level and what's going on there because the regulatory rules and laws governing medical marijuana and the social use of marijuana has had a huge impact on the severity of automobile crashes.

And, you know, some of the states that legalized it are now backtracking because it was "no-holds-barred. We're legalizing it for use without a lot of regulatory wrapped around it on purchase and even being able to test people who are intoxicated with cannabis."

But when you look at the numbers and you see the reality of severity of auto crashes in California, Florida, and Texas, and intoxication, not just alcohol, but just intoxication as a category, it's in the top five reasons for these very severe car crashes.

So, I think a lot of states that legalized are going back and re?looking and re?thinking how to do a better job of distribution and who gets it, who doesn't, amounts, the THC levels, all that is involved in this.

TK: Let's talk about congressional efforts to federalize the comp system. Previously, you had all agreed that it was unlikely we would see any movement if the GOP took control of one of the houses. Do you feel that way now? Michele, let's start with you.

Hibbert: Yes, I still feel that way for the same reasons that we described earlier. Do you guys feel different?

Allen: Well, I think from a congressional standpoint, it definitely puts a damper on any legislative efforts at the federal level to do anything. But, you know, over the last several decades, Congress has ceded more and more authority to the executive branch. And I think there's always the risk that the administration could do something. I think they're taking a little bit of a beating over the railroad union deal. The unions feel like the administration turned its back on them a little bit. So, I think that you still have the risk of an executive action to try to do

something to interject more federal involvement in the workers' comp systems.

Now, whether or not that's part of the union angst and sort of way to do a mea culpa at the executive level, I don't know. But I don't see Congress really weighing in on it. I just don't. I don't think there's an appetite for it, especially with a Republican-controlled House. I just don't see it happening.

Bickford: I basically just want to concur with what Michele and Brian had said. I don't feel that there's going to be much appetite for it. There are just too many other priorities that have everyone's attention right now. I just don't see federalization of workers' comp as something that's going to be high on the list if for no other reason than because it's very highly technical and it's a niche that people don't want to understand.

And that will only be compounded with what we had discussed earlier about having a lot of freshman legislators. And trying to take on something of this magnitude and this climate I think is unlikely.

Hibbert: I think also if we look at the property and casualty industry as a whole looking even toward auto insurance, during the Obama administration, there was huge movements to federalize auto insurance, and that was fought by very large lobbying efforts.

But now that inflation is sort of rearing its head during this time, I think that may be revisited. There have been many position papers put out over the last year or so on the pros and cons of this. Obviously, the huge con is private industry. It would devastate it. So, I believe that's the lobbying effort that occurs there and we likely won't see it. But I'm sure it will be revisited during this administration.

TK : Do you see any last?minute legislative activity at the federal or state level that could impact our industry before 2023?

Bickford: I'll take that. I do think there's one that we should watch carefully, and that is the year?end Omnibus Budget discussions. In the last two years at the 11th hour as part of the Omnibus Spending package, Congress has rolled back CMS' planned cuts in the physician reimbursement levels, largely in response to lobbying efforts on the part of the physicians.

And now, those are only compounded as inflation has increased costs for medical practices and the pandemic has dragged on. So, I think it is more likely than not that that proposal that was in the Physician Fee Schedule final rule that should be effective Jan. 1, 2023, I think that Congress will act.

Again, we were saying there is probably going to be a stopgap measure to fund the government after Dec. 16. I don't know how long that stopgap will continue, but as a practical matter, it would be better for the system if they were to roll back the proposed cuts in the Physician Fee Schedule rule for that to occur before year?end.

We will have a little bit of wringing of hands and gnashing of teeth if Jan. 1 comes and goes and technically the Physician Fee Schedule rates go into effect. They would have to reverse those at some point thereafter if the funding of the budget gets pushed into 2023.

I know that's something I'm watching carefully, and it definitely will have an impact on our industry for any states for whom reimbursement for physicians is tied to the CMS Physician Fee Schedule at the federal level.

Tom : OK. Brian, Michele, any other thoughts?

Allen: I think Lisa Anne really outlined the only real risk I see. I think so much of the time and attention that's left in this lame?duck session is going to be spent on budgetary issues, and I don't see other big policy changes happening. You obviously have the Christmas tree effect where people start hanging things on other bills, but I

just don’t see anything really burning out there, other than some of those reimbursement issues that Lisa Anne talked about that are going to be a real potential risk. It’s just I think the budget discussions are going to take up most of the oxygen in the room for the rest of the year.

Hibbert: I agree with Brian and Lisa. We have seen, and Lisa can obviously attest to this from past history, we go out with a percentage increase in Medicare that also affects us greatly, obviously, in workers’ compensation and auto. Like this year, I believe it’s a 3.8 percent increase, and we end up, by March, that three other changes have happened to the system to change it based on budget issues.

So, you know, we could be looking at multiple changes in the Medicare system or in the rates that are paid between now and the middle of next year. Maybe 3.8 is too high. Maybe it’s not high enough. Maybe we should do sequestration. These things can all affect how claims are paid in the workers’ comp and auto arenas, based upon what they decide to do.

TK : What about when 2023 kicks off? Will there be any early initiatives on the state or federal level that could impact our industry? Or will it just remain status quo for a while?

Bickford: I think we’re going to see a flurry of things introduced into the new year. There are several states that are already having wranglings, at least in the comp space, and Michele can speak to this certainly for auto. But in the comp space, we’ve already heard a lot of wranglings in the intercession about beginning of 2023 and heading into 2023 becoming some sort of a reform year.

There are discussions in several states about that, but what exactly that will encompass, I don’t know, but it wouldn’t surprise me if we start to see some early filings pretty close to the beginning of the year to kick that process off.

Hibbert: And don’t you think too, Lisa and Brian, that the states are really getting back to business as they were prior to COVID? A lot of the things that you’re working on, I mean, you’re out in the field right now, relate to operational changes that are being made in the payment of claims, dispute resolution, all the things that we were working on that were high priority for us prior to COVID are now being brought back into the forefront for reform.

And as you stated, states like California want to make changes in the state operationally to make it more affordable to pay claims and more efficient.

Bickford: Yeah, I agree, Michele. For example, I attended a stakeholder meeting in California in Oakland, where the DWC was soliciting feedback from any stakeholder on any topic related to the system because they really wanted to see where the stakeholders are sitting right now. What are their pain points? Where do they think the system can be improved?

And California was a great example that Michele mentioned, because in that meeting, they indicated that they wanted to sort of kick things off to do this listening campaign to see if common themes emerge. And this is December, we’re not even in January yet. From those discussions and suggestions, they’re going to formulate some task groups that are focused on solving particular things, so they can become a smaller and nimbler group that is going to be very issue?focused to try and tackle what the different pain points are in the system.

And, as Michele correctly stated, I believe now people view that, as COVID’s kind of heading toward the backburner and in the endemic phase, this is the time to sort of pick up the torch and look at those things again.

Allen: Yeah. I have to agree with both my colleagues. There is going to be a lot of activity. We're already seeing a lot of pre?filed bills around the country that we're tracking. And, drug prices are still a challenge for states, not just in the Medicaid systems and state?sponsor systems. Legislators are hearing from constituents about increasing copays, increasing costs of medications that they have to buy. It's a challenge. So, we're seeing bills around drug price, drug price transparency, regulating the supply chain. We're seeing bills like that pre?filed already.

The other thing that we're seeing a lot, and this is not maybe necessarily directly correlated to auto but it could certainly have a direct correlation in workers' comp, there's a lot of bill filing around behavioral and mental health. I think one of the things COVID really exposed is the inadequacies of our mental health system in this country, and it's something that's been around for a long time. It was a problem when I was a legislator back in the '90s, and it's still a problem today. It's an area people just don't really talk about all that much, but COVID really kind of brought it to the forefront.

And so, you're seeing a lot of activity around that, and I think you're seeing a movement in workers' comp to look more closely at mental health claims and mental health issues and whether or not they're compensable.

So, I think all of the activity around those things we're seeing a lot of early bill files around that. I think that's going to have an impact on the workers' comp and auto industries moving through this year and, something that we'll be wrestling with and then talking with policymakers about as legislative sessions begin.

That's certainly an area that we're seeing a lot of activity in from a pre-filed bill standpoint. Now, where those bills ultimately go, we won't know until the sessions start, but we're certainly keeping an eye on those.

"We're already seeing a lot of pre?filed bills around the country that we're tracking. And, drug prices are still a challenge for states, not just in the Medicaid systems and state?sponsor systems."

-Brian Allen

Hibbert: And on the mental health frame, I mean, you made a great point, Brian, because one of the areas that we've been focusing on in networks is inclusion of, more, for example, licensed social workers. Right, Lisa? Where we were appalled at the numbers in mental health?

Bickford: Yeah.

Hibbert: What were the access numbers for people to get mental health care in California, Lisa? They pretty much were non?existent in many counties.

Bickford: Yes, that's right. There are five counties in California that don't have any psychiatrists at all. Zero. And That's commercial health and workers' comp. So, that just tells you where we are.

Hibbert: Yes.

Bickford: And that number, I mean, it's hard to picture dwindling from zero, but as a practical matter, using California as an example, we're seeing more and more mental health professionals leaving the profession, as opposed to joining the profession. And that is coupled with a sharp uptake in demand for those services that we've seen.

As Brian mentioned, some related to the pandemic, but certainly, if it wasn't there before, it was escalated by the pandemic. And, in the occupational sense, especially with first responders and folks that have had to be on the

front lines of the pandemic, we've seen greater levels of stress, post?traumatic stress, coupled with the decrease in the availability of mental health providers.

So, I'm really glad that Brian and Michele brought this up because it is a key thing. Something that we have been watching and advocating for and I think that is going to be a big issue going into this year.

TK : OK. Great. And looking even further ahead to 2024, did the 2022 mid?term election signal how 2024, a presidential election year, could play out?

Hibbert: Heck no. [laughs] I don't think you could have any kind of prediction. You know, Donald Trump has already thrown his hat in the ring, but then you see factions, and large factions, of the Republican Party that are not enamored with that nominee.

So, then you have a split again of the Republicans. It could play well for Democrats if that happens. So, that's my opinion on the presidential election at this point. Unless someone rises to the top like maybe Gov. DeSantis or someone on the party who starts to get pushed into that realm.

Bickford: I agree, Michele. I think Brian may have touched on this earlier, now there's starting to be a backlash because Trump-supported candidates didn't fare well this election. I think this has been maybe a more vocal and surprising trend that sort of emerged and certainly will be somewhat predictive of what may or may not occur in 2024 or, more importantly, what's not a slam dunk for 2024, is how I would say it.

So, in that sense, I'd say the mid?terms did sort of give us some information that we didn't have, necessarily, prior to it.

Allen: Well, I think, too, trying to predict 2024 is challenging at this point. That's like a millennia away in political terms. I mean, you saw during just this last election cycle how quickly public opinion shifted on a Supreme Court decision or something that was in the news cycle.

The only prediction I can make that I feel comfortable making is I don't think Donald Trump is going to be the Republican nominee and I don't think Joe Biden is going to be the Democratic nominee. I think both parties are ready to move onto newer, younger, fresher leadership...

Bickford: Wow.

Allen: There's a lot of pundits saying that, and I think it just stands to reason just given the dynamics of the situation there's so many things that can happen. And a lot of it's going to depend on how Congress performs and what issues are out there. A lot of it's going to depend on where the economy's at, although the economy didn't have much of an impact this year as much as I thought it would have. Typically, people vote with their wallets, and this year they just really didn't. And the new cycles now are so short and the attention of the voting electorate on various issues is short, it's really hard to predict.

But I think it'll be interesting to see how Congress performs. It'll be interesting to see how states, with all their new newly elected officials at the legislative level, how they settle into their work. And that will portend a lot for what happens in 2024.

I mean, it's going to be a different year. This year there were more Republican senators at the federal level up for reelection than there were Democratic. In 2024, there's more Democratic senators than there are Republicans. So, it gives you an idea that maybe all the incumbents keep their jobs. It's just hard to know because things are so fickle now in the political world and public opinion shifts so rapidly on just bellwether issues.

I don’t see that getting any easier as time goes on with the voting public. I’m sure they’re glad the political ads are over and they’ll get a respite for that for at least a year. But then, it’ll begin in earnest again. So, we’ll be there watching, waiting and wondering ourselves.

TK : And, before we go, what other key legislative or regulatory issue could impact our industry as we start the new year?

Hibbert: For me, inflation and just the price of medical care is top of mind for our customers and top of mind for consumers. I right now don’t see anything out there to combat it other than creative methods and using provider networks and maybe some change. I don’t see any fee schedules saying, “Hey, let’s lower our fee schedule for payment of claims.” I don’t see that in work comp. I don’t see it in auto. All I see is the sort of an inflation effect on the usual and customer amounts, the market rates, which impacts fee schedules of the future, all going up.

Workers’ comp really is going up more on the charge side than we are seeing in first party auto, which is kind of unusual. So, I would like to see more inflation in the prices addressed more at the state level to help our customers combat them.

We’re still in a kind of a quagmire in Florida, right, Lisa? On what’s going to be happening with the inpatient side and what’s going on there?

“For me, inflation and just the price of medical care is top of mind for our customers and top of mind for consumers.”

-Michele Hibbert

Bickford: Yes.

Hibbert: It’s very expensive to do business in that state for providers.

Bickford: It is. It’s actually very expensive in all states. And I was going to say, Michele, while you were talking about inflation, the fact that prices have escalated to the extent that they have recently and particularly in the medical arena. Michelle correctly stated that our customers are certainly worried about the escalating costs of claims.

On the provider side, the fact that we do have inflationary pressures coupled with coming out of the pandemic has sort of buttressed the arguments that are being made in favor of increasing their reimbursement levels. And that’s true for facilities as well as on the physician side.

Hibbert: Evaluation and management, which is an office visit, we’re seeing pretty much on the federal side, using the time you spend with a patient as the key pivot. What you charge and leveling in the categories of evaluation management and office visits all going up. You can’t stack patients in an office anymore like you used to. They’re spaced apart and so basically, providers are not seeing the same number of patients as they were before. It’s a fact.

And it’s causing many of them to go out of business or many of them to merge with larger groups. And it’s again, cost attributing to the overhead and the cost of the claim for workers’ comp in auto.

Allen: I think another thing to consider, too, is that historically, drug price increases have outpaced inflation by, by two or three points. Um, and if that holds true this year, we’re looking at double?digit increases in the price of drugs.

Now, inflation is high. It's at historically high levels. It's backed off of some but still not a lot. I mean, it's still over seven percent, which is typically around where drug price inflation has been. Generally, it's been between five and seven percent.

So, this might be the one year that drug price increases don't outpace inflation, because our inflation rates are so high. But if they're going to increase that is creating a lot of angst at the state level. I think state policymakers are going to continue to work on trying to figure out how to get their head around drug pricing and what needs to happen there.

TK: Thank you Brian, Lisa Anne and Michele, for sharing your expertise and providing stimulating conversation. For more on this topic and other issues affecting workers' comp and auto physical damage in 2023, check out the *Enlytened Trends Report.*



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