Auto Casualty, Workers' Comp

# Six Legislative and Regulatory Changes and Trends Impacting the Insurance Industry

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Monitoring legislation and evolving compliance trends is critical in our industry and more important than ever. As we enter the 2024 legislative sessions, along with a presidential election year, it should prove to be a very interesting one. At Enlyte, we already have “boots on the ground” and are looking forward to another exciting year.

#### 1. The Role of AAPAN

The American Association of Payers, Administrators, and Networks (AAPAN) plays a pivotal role in shaping public policy and advocating for the interests of its members. The recent appointment of a new Vice President of Governmental Affairs and Public Policy at AAPAN signifies a promising step forward for the organization. This move is expected to strengthen AAPAN's advocacy efforts and provide a unified voice for the industry in regulatory and legislative changes.

#### 2. Pharmaceutical Cost Transparency

The cost of drugs has been a contentious issue for several years, with Congress grappling with potential solutions. Currently, there are several bills under consideration that aim to increase transparency and reform pharmacy benefits. While these bills primarily focus on Medicare and Medicaid, their implications could potentially extend to the workers' compensation and auto space.

#### 3. Potential Changes from the Centers for Medicare & Medicaid Services

With numerous states having fee schedules partially or fully connected to the physician fee schedule, any changes implemented by Centers for Medicare & Medicaid Services (CMS) could have a significant impact on

the workers' compensation space. For instance, Evaluation and Management (E&M) services, which represent a substantial portion of all physician expenses in workers' compensation and first party auto, are directly affected by CMS regulations.

The introduction of a new program called caregiver training services will allow mid-level physicians, occupational therapists, physical therapists, and speech therapists to provide training to caregivers for individuals who are disabled and require in-home care. This service will now be compensable, which will undoubtedly impact workers' compensation. Additionally, a new add-on code for E&M (G2211) has been introduced for complex cases. This could potentially be a cost driver in workers' compensation and needs to be monitored closely.

The concept of split shared services has also been a topic of discussion. This applies in a facility setting where a physician works with several mid-levels. The current law allows the visit to be billed under the physician's National Provider Identifier (NPI) if the physician drives the medical decision-making, even if the mid-level spends more time with the patient. CMS has been trying to shift this to a solely time-based system, but due to push back from facilities, this change has not been implemented yet.

In addition to these changes, CMS has also recognized that direct supervision may not always be necessary for occupational and physical therapy assistants. This recognition has led to the allowance of remote supervision, referred to as general supervision. This change is an extension of the trend that emerged during the COVID-19 pandemic in the telemedicine space.

#### 4. Michigan Senate Bill 530

Michigan Senate Bill 530 proposes changes to the fee schedule, and has passed the Senate but has not been approved by the House. This bill could potentially be picked up again in the next legislative session, highlighting the importance of staying informed about legislative developments that could impact business operations. It is our impression there may be another bill introduced, potentially authored by the House, that will address post-acute care services.

#### 5. California Workers’ Comp Fee Schedule Rule

In California, changes are on the horizon with the potential introduction of a new fee schedule rule in workers’ compensation that aligns with the current medical system. This change, which could significantly impact the workers' compensation system, highlights the need for businesses to stay abreast of regulatory changes and adapt their strategies accordingly.

#### 6. Auto Industry Considerations

The auto industry is witnessing significant changes, with a focus on automation and digitization. However, the rise in litigation is posing challenges to low touch claims on the auto side. There are also potential new fee schedules in the works, with severity continuing to be a factor in first party claims. On the third party side, there are prominent medical trends emerging, with combinations of radiology, physical medicine and rehab, and pain management becoming increasingly noticeable in combinations with each other.

In addition to these trends, businesses must also keep an eye on the fatal crash data, as this is where the severity is the worst. Understanding this data can provide insights into why claims are settling for higher dollars in certain states, usually related to the court system. For instance, in states like Georgia, Florida, and Washington, there are significant regulatory and litigation issues that businesses need to be aware of and monitor closely.

As we begin another year, successfully navigating regulatory compliance within the insurance industry remains a complex, yet essential task. The role of organizations like AAPAN and CMS in shaping the trajectory of these changes, alongside ongoing discussions around trends and legislative alterations, emphasize the importance of staying informed and adaptable.

Enlyte's Regulatory Compliance and Governmental Affairs Team closely watches and understands the trends, challenges, and solutions needed to navigate the complex property and casualty landscape. We partner with our customers to deliver the right regulatory knowledge, involvement, and strategies to best represent the interests of our clients and the industry.




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