

How is that program working and do you have much resistance from the providers? How long have you been doing these audits?

164 OSTERTAG: I believe it works well. We don't have much resistance. We've been doing it since 1987.

177 CHAIR SHOEMAKER: Does your general authority include the power to look at the verification of the charge?

184 CHAIR SHOEMAKER: Don't doctors normally post their billing schedules listing their normal and customary charges?

187 OSIERTAG: Some do and some don't, and it's not always easily accessible if they do. 210 CHAIR SHOEMAKER: My understanding is that there is not truly a usual and customary charge because they have negotiated a host of different rates with different payors.

217 OSTERTAG: That may be true. But we can't root out fraud because we don't have access to what providers pay to the host of different payors.

225 CHAIR SHOEMAKER: Assume you have access and you find a host of different charges to different payors, how do you determine what usual and customary is?

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229 OSTERTAG: That's a good question. We're not sure how we would do that. We could define it as the lowest charge to anyone 254 CHAIR SHOEMAKER: Have you explored with the Workers' Compensation Division, which reimburses at 75%, why they reimburse at that rate? 258 OSTERTAG: No. We are looking at a provider specific issue while they are looking at an overall provider group to come up with the usual and customary charge. 279 CHAIR SHOEMAKER: Can you presume that the usual and customary charge for a certain service is X and then ask providers whose charges differ from X to justify why their rates are different? 287 OSTERTAG: We do that sometimes. But if a doctor's attorney disputes our estimation of what is normal and customary and furthermore doesn't give us access to the records then we don't have access to their records to prove that our estimate is appropriate. The burden to prove that is on us and we currently lack the means of doing so. That is what this bill would correct. 311 CHAIR SHOEMAKER: You said you don't need to do this very often - you do it only in cases when you think you're being cheated. Perhaps we should limit this bill to giving OMAP the right to examine records only when OMAP can prove there's probable cause of overbilling or double billing going on. 340 OSTERTAG: That would be better than nothing. Of course, if you give us the bill in its present form you don't have to worry about us abusing the privilege because we don't have the staff time to review lots of records from lots of offices. 357 SENATOR HANNON: Do you assume that doctors should charge the same rate for the same procedures across cities? 368 OSTERTAG: No. We look at one physician in order to determine that the one physician charges all of his or her patients the same amount.

376 SENATOR HANNON: How many cases since 1987 have you dealt with overcharging?

378 OSTERTAG: We can't determine that. We've come across 3 or 4 by happenstance.

448 SENATOR HANNON: How many random samples do you do per month to check for fraud or abuse? 457 OSTERTAG: We check about 4 to 7 providers per month. We check about 30 to 70 line items or codes per provider. TAPE 28, SIDE A Witnesses: Scott Gallant, Oregon Medical Association SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS Janua~y 20, 1991- Page 4

031 SENATOR ROBERTS: Is the term usual and customary fee defined in the federal and state regulations?

036 OSTERTAG: It is defined simply as normal charge or the amount that is charged to the general public.

067 SENATOR ROBERTS: Do you think that doctors have a schedule of payments that they refer to?

071 OSTERTAG: Yes. I assume that is true. 073 SENATOR ROBERTS: So maybe it would be better for your agency to be empowered to look at provider's schedule of payments or fees rather than looking at individual records. - You have indicated that you want to discover what an individual doctor's usual fee is rather than what the usual fee is in ascertain location. Yet, in line 9 you indicate that you want information on the usual fees according to locations. This is a discrepancy. 102CHAIR SHOEMAKER: Did you say that an agency cannot pay a provider more than the provider's customary charges? Is that what you said? 111 OSTERTAG: The regulations say for inpatient services the agency cannot pay more than the provider's charges to the general public... for outpatient services the agency must not pay more than the prevailing charges in the locality for comparable services under comparable circumstances.

119 CHAIR SHOEMAKER: Do you ever pay 100% of the customary charges to a provider?

120 OSTERTAG: In some cases.

210 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Presents (EXHIBIT C) which explains that the OMA opposes SB 62 because they believe that the Department of Justice already has adequate power to investigate instances of fraud.

285 CHAIR SHOEMAKER: Under current law it is difficult for OMAP to make a strong enough case that a certain provider may be cheating in order to bring the Department of Justice in.

330 SENATOR HANNON: Have you heard from the Washington Medical Association how this bill may be working up there?

334 GALLANT: No.

TAPE 27, SIDE B

Witnesses: Robert Woolsey, Oregon Clinical Laboratory Association Jeff

Heatherington, Osteopathic Physicians and Surgeons of Oregon, FamilyCare and Evergreen Medical Systems Nan Dewey, Oregon Dental Association
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e S

Bruce Bishop, Kaiser Permanente

068 CHAIR SHOEMAKER: How do you think OMAP can police against fraud without overly intruding upon doctors' privacy?

072 GALLANT: Such investigation could be done by private survey.

086 ROBERT WOOLSEY, OREGON CLINICAL LABORATORY ASSOCIATION: Submits (EXHIBIT D) which explains that his association opposes SB 62 because it casts an unnecessarily broad net over providers whether they are part of the problem or not.

110 CHAIR SHOEMAKER: Assuming we can identify some area where abuse is occurring, do you have any suggestion for a fair way to investigate?

118 WOOLSEY: I think we should start by requesting fee schedules from the professional societies. 121 JEFF HEATHERINGTON, FAMILYCARE, EVERGREEN MEDICAL SYSTEMS AND OSTEOPATHIC PHYSICIANS AND SURGEONS OF OREGON: Submits (EXHIBIT E) which emphasizes his belief that there are adequate enforcement mechanisms available to OMAP and the Department of Justice to deal with fraud and abuse in the Medicaid program.

195 SENATOR ROBERTS: It seems to me that this bill wouldn't reach your organizations' providers.

220 HEATHERINGTON: No. I checked with my providers and they assured me that this bill would affect them.

231 NAN DEWEY, OREGON DENTAL ASSOCIATION: Submits (EXHIBIT F) in opposition to SB 62. Claims this would be redundant legislation.

266 BRUCE BISHOP, KAISER PERMANENTE: Opposes the bill.

274 CHAIR SHOEMAKER: Was Mr. Heatherington right that the only two groups that bill based on customer charges are anesthesiologists and hospital outpatient lab and X-ray services?

277 OSTERTAG: He is not totally right. A number of hospitals, for both their inpatient and outpatient services, will be paid directly based on their charges.

348 COHEN: Why can't you just change providers if you think some may be cheating the Medicaid program?

352 OSTERTAG: We have to go through protracted hearings to remove physicians from the Medicaid provider roles.

375 CHAIR SHOEMAKER: The bill isn't going anywhere in the present form. Confer with your colleagues and define the problem better.

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410 CHAIR SHOEMAKER: Adjourns hearing 4:40.

Submitted by: Reviewed by: Mark Sigel Barbara Coombs
Assistant Administrator

EXHIBITS

A - Testimony on SB 62, Ostertag, 2 pages B - Washington law on Medicaid fraud, Ostertag, 1 page C - Testimony on SB 62, Gallant, 2 pages D - Testimony on SB 62, Woolsey, 1 page E - Testimony on SB 62, Heatherington, 1 page F - Testimony on SB 62, 1 page

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