Statement To

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

SUBCOMMITTEE ON STANDARDS

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Thank you to the co-chairs, members, and staff of the Subcommittee for the opportunity to present today. My name is Lisa Wichterman. I am the Medical Policy Specialist at the Minnesota Department of Labor and Industry, Workers' Compensation Division. I will be presenting today from a State's perspective on workers' compensation.

Workers' compensation differs from general health care, as it is a legal system based on statutes and rules. Each State has different laws and policies regarding workers' compensation and the payment of medical bills may greatly differ from the way a bill is paid under a general health insurance policy. In workers' compensation, medical bills are paid based on law, including medical fee schedules and other regulations, legal settlement agreements, or a judge's order as a result of litigation. If standard electronic transactions are to apply to the workers' compensation industry, flexibility in the transaction standards is needed.

The workers' compensation industry appreciates the value of electronic transactions. Paper health care transactions are expensive and inefficient for health care providers and payers. The general health care system has shown that one electronic system improves efficiency, is fast, has increased accuracy and accountability of stakeholders, and decreases administrative costs.

Unfortunately, the current 5010 standards were not designed for workers' compensation systems. Trying to implement the standards designed for general health care has been very difficult for workers' compensation stakeholders. Several workarounds have been applied to the standards in an attempt to include workers' compensation. Many stakeholders simply give up and continue to send paper. We understand that efforts to improve the next version of the standard to be more compatible for workers' compensation are being done, but an ideal standard that workers' compensation stakeholders would embrace is not currently available.

Minnesota workers' compensation has had first hand experience with standard electronic transactions. In 2009, the Minnesota legislature mandated electronic medical transactions for all health care providers and payers, including workers' compensation. Minnesota workers' compensation has taken an electronic format designed for transmitting health care transactions in the general health insurance system, and has made modifications to allow for submission of workers' compensation health care transactions. Minnesota workers' compensation has done this while still remaining compliant with jurisdictional legal requirements. The lengths that Minnesota has gone through to be compliant using the existing standards stresses the need for flexibility of the standard.

Many states, including Minnesota, require health care providers to send payers a medical record documenting that the treatment was needed to treat the work injury. Transmitting a medical record along with the 837 has been and still is one of the biggest challenges in the electronic process. To overcome this challenge a method has been developed to match the 837 with the medical record through the use of a unique number placed in loop 2300 PWK segment of the 837 and the same unique number placed on the paper medical record so the 837 and medical record can be paired together. Currently most medical records are faxed from the health care provider to the workers' compensation payer/insurer.

The next hurdle for workers' compensation is the transmission of electronic data between the health care provider's clearing house and the payer's clearing house. This has been such a significant problem that Minnesota had to amend the law to require clearinghouses to transmit and receive electronic transactions to and from any other clearinghouse or trading partner that requests a connection.

This brings us to the biggest challenge we have encountered. The existing claim adjustment reason codes (CARC) and remittance advice reason codes (RARC) did not communicate the legal citation for the reduction or denial of a medical charge, which is required by Minnesota workers' compensation law. The ASC X12 5010 835 does not have free form text ability. For the 835 to be compliant with workers' compensation rules, Minnesota aligned with the International Association of Industrial Accident Boards and Commissions (IAIABC) to modify existing CARC and draft additional CARC that fit jurisdictions' legal and other needs unique to each state's workers' compensation laws. Minnesota and IAIABC members presented the proposed CARC codes to the X12 835 work group to ensure compliance of the wording. Minnesota and IAIABC members then presented the CARC to the X12 Codes Committee to vote on for approval.

The Minnesota Department of Labor and Industry drafted specific 835 workers' compensation rules. These rules require workers' compensation payers to specify, in the Insurance Policy Number Segment 2100 loop, "Other Claim Related Information" and the Healthcare Policy Identification segment, 2110 loop of the 835 remittance advice transaction, an enumerated code to identify the basis for its adjustment or denial of a medical bill or charge. This code specifies the workers' compensation statute and rule the payer is citing as support for its adjustment or denial. A code list that describes the basis for the adjustment or denial was developed and placed on our website for stakeholders to access. Now a compliant 835 can be sent from the payer to the health care provider.

These examples illustrate the workarounds workers' compensation must do with the standards to ensure the transactions meet the legal requirements and processing needs of a jurisdiction. This is a time consuming and burdensome process. Despite all the hard work and effort, one Minnesota payer has estimated that fewer than ten percent of medical bills were successfully transmitted electronically. This shows the need for flexibility of the standards to align with workers' compensation.

Workers' compensation uses the CPT, HCPCS and ICD-9 code sets for medical bills. A few states do have some "State Specific" procedure codes in addition to CPT procedure codes.

Minnesota workers' compensation is in the process of transitioning our laws that specify ICD-9 codes to ICD-10 codes. The change to ICD-10 requires Minnesota to go through the formal rulemaking process which can take several months to complete. On October 1, 2013 ICD-10 codes will be required for Minnesota workers' compensation stakeholders.

Coordination of benefits (COB) in the workers' compensation system is not a traditional type of COB; it is a legal process. In Minnesota, if a dispute exists as to whether an employee's injury is compensable, and the employee is otherwise covered by a general health insurer, the health insurer must pay any medical costs incurred by the employee for the injury up to the limits of the applicable coverage. If the injury is subsequently determined to be compensable, the workers' compensation insurer must reimburse the health insurer with interest.

The standards governing enrollment and disenrollment in a health plan, eligibility for a health plan, and health plan premium payments would not work in workers' compensation systems, because liability is established only when an injury occurs. Therefore, Minnesota law requires workers' compensation providers and payers to comply only with the health care claims, health care payments, and health claim acknowledgement transactions. However, the referral certification and authorization transactions could be useful in the workers' compensation system and we would be interested in further exploration of these standards.

The IAIABC has a standard for the employer's electronic first report of injury that is currently successfully used in about 30 states. The IAIABC first report of injury standard includes security measures, acknowledgments, and tracking methods. We are requesting that NCVHS recommend implementation of the IAIABC standard for the first report of injury, as it meets the needs of the individual jurisdictions. A first report of injury to be used by health care providers may be worth exploring further with the IAIABC.

Three states have been working diligently to implement the applicable electronic standards; Minnesota, Texas, and California. Other states have made inquiries, but are cautious at this time to move forward with the conversion due to the complexity of the standards and the initial implementation costs. Standard electronic transactions are definitely a tool that will be valuable to the workers' compensation industry. A compatible set of standards that will easily function with all lines of health care transactions is optimal. Because each state has different workers' compensation laws and

systems, the standards cannot be rigid, and must allow for flexibility to accommodate different state laws. The IAIABC is in an excellent position to coordinate the needs of individual states in implementing electronic transactions.