

Written Testimony of Andre Hinchman, CEO of AllianceMeds

House Labor Committee Hearing on 10/9/24

Re: Federated Ins. Co v. Summit Pharmacy

Hello, my name is Andre Hinchman and I am the CEO of Alliance Medications Services, LLC d/b/a AllianceMeds. AllianceMeds is a pharmacy based in Hometown, Pennsylvania. We have 19 employees and have been in business since 2008. AllianceMeds only fills medications for injured workers.

Injured workers often have a very hard time getting their work-related medications filled by other local pharmacies. Pre-authorization of a prescription payment is not required in Pennsylvania. Therefore, most local pharmacies will not fill an injured worker's medication without first being guaranteed payment by the workers' compensation insurance carrier. Local pharmacies accomplish this task by subscribing to a national "switch" where the Carrier provides information regarding whether the prescription will be paid and at what price. Often times, even in accepted cases, the Carrier will enter a denial in the switch. Other times the Carrier will offer a reimbursement rate so low that the local pharmacy will refuse to fill the medication. This result is a very difficult situation for the injured worker. They must either pay for the medication out-of-pocket when they are most likely already strapped financially due to the hardship of a work injury. The alternative is to have an alternate source of insurance such as Medicare pay for the prescription. This still often result in copayment and also may shift the Carrier's responsibility to the taxpayer.

AllianceMeds helps injured workers receive their medications even when the Carrier denies payment or offers a low reimbursement rate. We understand the workers' compensation law and are able to evaluate a case to determine if the medications should be paid by the workers compensation insurance carrier. In those situations, we fill the medications and often, the Carrier pays for the medications. The Carrier pays because they know if the case went to a hearing they would be forced to pay anyway and would also incur legal fees and could be subject to penalties. In other cases, the claim is denied or in litigation regarding the description of the work injury and/or the reasonableness and necessity of medical treatment. In those cases, we fill medications even though our bills are denied and wait for a decision from the WCJ to determine if our bills are paid. If the WCJ decision is unfavorable, we will write off our bills. This allows the injured worker to receive medication during the pendency of the litigation, which can take a year or two. It also requires our pharmacy to very carefully evaluate cases and only fill medications on legitimate cases.

Due to the nature of our business, we are often an injured worker's last hope for the medications they need. For many of our clients this means valuable pain relief to maintain some basic quality

of life. However, for other clients, it means life-saving blood thinners to prevent blood clots and depression and anxiety medications to prevent mental breakdowns or suicide. We also serve first responders who have work-related heart attacks and other occupational diseases and require maintenance medications to prevent worsening of the condition.

The Implications of Federated Insurance Company v. Summit Pharmacy (Commonwealth Court, No. 115C.D. 2023, Filed 1/2/24):

The holding in Federated Insurance is very damaging to injured workers' and pharmacies. RedBook AWP is a fair and readily available pricing metric that allows pharmacies to fill medications for injured workers. If the Carrier pays for prescriptions timely and without hassling the injured worker, the injured worker will most likely use the Carrier's pharmacy service or a local pharmacy accepting a lower reimbursement rate. It is the cases where the Carrier denies valid claims or offers reimbursement rates with no profit margin at all, that pharmacies like ours are needed. Without pharmacies like AllianceMeds the bad actions of the Carrier would go unchecked. And the current system does incentivize Carriers to deny payment of prescriptions. Denied prescriptions are not included in Medicare Set Aside Allocations, which allows the amount shifted to Medicare and the taxpayer to be higher. In other cases, the injured worker must pay out-of-pocket and causes injured workers to choose between groceries and medications. In extreme hardship cases, the injured work will turn to state entitlement programs. It just isn't fair to make the injured worker and the taxpayer pay for treatment the Carrier is responsible to pay.

AllianceMeds helps to even the playing field and force the Carriers to pay when they should. Our very existence is based on the fact that the Carrier will deny prescriptions they should have paid. To choose a reimbursement rate that is too low for pharmacies like ours to do business will give the Carriers free reign to disregard their payment obligations under the workers' compensation act.

Why Average Wholesale Price (AWP) is the fairest pricing metric:

AWP is the most widely used pricing metric for prescription medications in all workers' compensation and government programs, including:

- **Medicare Set-Asides.** A MSA is a projection of the injured workers' future medical costs that must be set aside from a workers' compensation settlement and spent on future care. After the money is spent, Medicare will then pay bills for injured related care. Medicare relies on RedBook AWP.
- **Most states worker compensation fee schedules.** As of February 2024, according to OPTUM (one of the country's largest Pharmacy Benefits Managers) there are 35 States

that use AWP exclusively. 14 States including Washington DC use the Usual and Customary charge (typically this is a number also derived from AWP). Only one state, North Dakota, uses Wholesale Acquisition Cost (WAC) for brands and generic fee schedule, but they also reference AWP for compounded medications in their statute. Massachusetts, is the only state based on a pricing metric other than the AWP.

- **All federal fee schedules.**
- **In summary, most other states and federal programs who have balanced the needs of cost containment with the accessibility of care for injured workers have found that AWP is a fair pricing metric.**

AWP is published by RedBook and Medispan. Pricing by both metrics is comparable and our only preference is based on the inexpensive and availability of subscriptions for RedBook AWP. A subscription for our pharmacy costs just under \$2,000.00 per year.

RedBook AWP provides a fair reimbursement rate that allows pharmacies like ours to help injured workers. Unlike prescriptions billed to private health insurance or Medicare that can be verified and filled in minutes, prescriptions filled for work injuries require more work. Legal documents must be reviewed, letters of medical necessity obtained, litigation monitored, and numerous contacts must be made with the Carrier to effectuate payment. In other cases, the pharmacy must wait a year or two for payment and risk the possibility of not being paid at all.

NADAC/WAC Pricing Will limit Injured Workers' Access to Prescription Treatment :

AllianceMeds will not be able to afford to provide medications to injured workers if National Average Drug Acquisition Cost (NADAC) or WAC pricing is adopted. Smaller, independent, local Pennsylvania pharmacies will not be able to negotiate a favorable enough purchase price to even cover our pharmacist's time, let alone the other costs of business unique to denied workers' compensation cases. Patient Advocate Pharmacies are pharmacies of last resort and only exist because of the bad action of the insurance carrier. If eliminated, carriers will have unbridled power over an injured worker's medical treatment. This violates the remedial nature of the workers' compensation act, public policy and may increase other litigation such as Utilization Review Proceedings.

In addition, a "de facto" formulary may be imposed by the Carrier based on their listing of drug reimbursement rates in their electronic pharmacy billing, adjudication and authorization switches that local pharmacies use. Whatever inexpensive medications the Insurance Carrier allows a minimal reimbursement for filling will be dispensed; all others will be denied. This will result in

an injured worker's medical treatment being determined strictly on the profitability of filling one medication over another.

Finally, NADAC/WAC pricing subscriptions are very expensive. In 2024 our pharmacy was given a quote of \$25,000 per year.

There are many other deficiencies with National Average Drug Acquisition Cost (NADAC):

NADAC doesn't consider rebates and discounts that the largest contract players receive in addition to the insurance reimbursement. These large contract players usually have contracts in place with the insurance carriers that impose drug formularies and require pre-authorizations.

It may also limit access to medical care. NADAC was Developed for State Medicaid programs. Many patients have difficulty accessing medical care at Medicaid prices.

NADAC also does not offer pricing for all medications. Narcotics and at least 22% of medications are not included in NADAC pricing. In fact, 25% of our top 100 medications filled were not included. Topicals and narcotics are typically not covered.

It is also suspect that NADAC could serve as average wholesale price when it's reimbursement rate would be lower than the WAC price, which is the price from which the wholesaler buys the medication from the manufacturer.

Wholesale Acquisition Cost (WAC) also does not offer a fair reimbursement rate:

WAC is the acquisition cost of the wholesaler to purchase the medications from the manufacturer. Therefore, it cannot fit the Commonwealth Court's definition of a "Nationally recognized schedule" of average wholesale price.

WAC is the only pricing method defined in the U.S. Code: *Section (B): "The term "wholesale acquisition cost" means, with respect to a drug or biological, the manufacturer's list price for the drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological pricing data. (42 U.S.C. § 1395w-3a - U.S. Code - Unannotated Title 42. The Public Health and Welfare § 1395w-3a. Use of average sales price payment methodology)."*

According to definition, WAC is the price the manufacturer (for example: Pfizer) sells the medications to the wholesaler (for example: Amerisource Bergen). Pharmacies then have to purchase the medications from the wholesaler and fill it for the injured worker dispensed from any retail pharmacy. It's common sense that this price should be higher

than the pricing method used for the wholesaler to purchase the medication from the manufacturer.

Conclusion:

AllianceMeds helps injured workers receive their medications even when the Carrier does not follow the law. If NADAC or WAC are legislated to be the new pricing metric, AllianceMeds will unfortunately not be able to provide medications for injured workers in Pennsylvania. This will harm local independent Pennsylvania pharmacies. Most importantly, injured workers will face real obstacles in accessing prescription care. Adopting a pricing method other than AWP is against public policy and the remedial nature of the workers' compensation act and serves only to give the Carrier unabated power in controlling the injured workers prescription treatment.

I would like to thank the Committee for their consideration of these matters. Your attention and diligence in securing a fair solution for pharmacies and injured workers' is appreciated.

Andre S. Hinchman

CEO, Alliance Medication Services, LLC d/b/a AllianceMeds.

Andre@AllianceMeds.com

215-749-0993