

## Murdo, Patricia

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**From:** Keck, Jerry  
**Sent:** Thursday, August 12, 2010 11:49 AM  
**To:** Murdo, Patricia  
**Cc:** Frank Neuhauser; 'annclayton@aol.com'; Bovington, Judy; Wolfinger, Anne  
**Subject:** FW: fyi - savings memo to address EAIC question on savings transfer

Pat: I thought these comments from Frank and Ann were valuable and might be of use to you in crafting your memo or explaining options to the EAIC.

Thanks,

Jerry

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**From:** annclayton@aol.com [mailto:annclayton@aol.com]  
**Sent:** Thursday, August 12, 2010 7:21 AM  
**To:** frankn@berkeley.edu; Keck, Jerry; Bovington, Judy; Wolfinger, Anne  
**Subject:** Re: fyi - savings memo to address EAIC question on savings transfer

I agree with Frank, your best approach would be to mandate reporting of transaction level detail to ERD and publish that. However, the legislature may also want to do something with the insurance regulatory structure to ensure (at least for a two to four year period) that NCCI loss cost filings be adopted by all insurers but keep their ability to deviate up or down by the current % that would still allow competition and additional costs for those employers who are in high risk businesses or who are not paying attention to safety and RTW. I would think this would be much more palatable to insurers than mandating a specific level of administrative costs or mandating a specific decrease upon implementation of the legislation.

I have not been following the regulatory testimony or the State Fund issues, so forgive me if my suggestion is already being considered.

Ann

-----Original Message-----

**From:** Frank Neuhauser <frankn@berkeley.edu>  
**To:** 'Keck, Jerry' <jkeck@mt.gov>; annclayton@aol.com; 'Bovington, Judy' <JBovington@mt.gov>; 'Wolfinger, Anne' <AWolfinger@mt.gov>  
**Sent:** Wed, Aug 11, 2010 12:25 pm  
**Subject:** RE: fyi - savings memo to address EAIC question on savings transfer

Jerry, Ann, et al.

Pat is identifying an important issue. Insurance & actuarial methods are notorious for missing "turns" in the market (increases and decreases). Add to this that NCCI will likely be very conservative on initial savings estimates, one can expect that insurer rates will come down much more slowly than underlying costs. This was certainly the case in California which had similar pre-reform costs to MT and adopted similar reforms.

I do not think it is practical to try and regulate the allowed administrative costs. These vary greatly across companies and are subject to many different accounting methods that can obscure actual administrative costs relative to losses (for example, maintaining high incurred cost estimates, thus lowering administrative costs relative to loss costs). And, to be fair, administrative costs will likely be higher while insurers digest the initial impact of reforms.

Pat's second suggestion, regulating employer dividends has more potential. It is a retrospective system and could be based on losses being lower than expected, at least as filed on an insurer's rate filing. But, I suspect that this might run into legal problems. I don't know that the state has the authority to require private companies to pay a certain level of dividends. There might be more state authority over MSF, which would especially impact small employers, but again I'm unsure about how well the courts would support this type of action. And, politically, this would likely cause a lot of push back from insurers against the reforms more generally..

An alternative is to improve the information available in the market and thus affect insurers actions when they set prices, rather than fixing it retrospectively. As I mentioned, insurers will be slow to acknowledge pricing changes, and partly this is because insurer information, particularly the type used by NCCI is very delayed in reporting. ERD could play the key role in this process. What ERD can do that individual insurers can't (for competitive reasons) and NCCI won't do is track and publish changing cost based on transaction level data, both medical and indemnity. If the legislation included some requirements for insurers (at least large ones) to supply ERD with the type of transaction data that we've used in much of the cost projections, then ERD could track costs in almost real-time. This cost tracking could include the retroactive savings on pre-reform policy year claims that we anticipate will be quite large. Maybe quarterly reporting on transactions with a three month lag (report 1<sup>st</sup> qtr transactions at end of second quarter).

Keeping in mind that insurers are writing policies all year and adjusting debits and credits, real-time cost estimates could continuously improve the premium levels and encourage them to more closely track changes in the underlying costs.

I think this type of market influence could be legislated and would be acceptable to insurers. I also think ERD has developed some real skills in using these types of data and could develop any additional expertise, maybe with only a limited amount of additional resources.

Frank

Frank Neuhauser  
UC Berkeley

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**From:** Keck, Jerry [<mailto:jkeck@mt.gov>]  
**Sent:** Wednesday, August 11, 2010 8:37 AM  
**To:** Frank Neuhauser; '[annclayton@aol.com](mailto:annclayton@aol.com)'; Bovington, Judy; Wolfinger, Anne  
**Subject:** FW: fyi - savings memo to address EAIC question on savings transfer

FYI. Note short turnaround. Frank and Ann, if you have comments, please send to me ASAP. Jerry

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**From:** Murdo, Patricia  
**Sent:** Tuesday, August 10, 2010 5:11 PM  
**To:** Kindberg, Mari; 'Mike Taylor'; Barry, Mark  
**Cc:** Keck, Jerry; Messmer, Keith; Ferriter, Diana  
**Subject:** fyi - savings memo to address EAIC question on savings transfer

This is a memo that I plan to give the Economic Affairs Committee to help answer the question about how to guarantee that the savings projected from medical fee schedule changes and the UT guidelines, as well as other proposed LMAC changes, be passed along to the policy payors. If you have suggested changes, please let me know before noon Thursday 8/10. If that is too fast a turnaround, we can still advise the Economic Affairs Committee at its Aug. 19 meeting of concerns about the memo. –

Pat Murdo  
Legislative Services  
406-444-3594  
SavingsMemo.pdf