

PAIN POINTS

FOUR BANES OF OUR EXISTENCE
AND CREATIVE CLAIMS
SOLUTIONS TO LESSEN YOUR
STRESS

Addressing Pain Points Together

 PARMA 2024

PAIN POINTS OVERVIEW



Utilization Review

Inconsistent responses
or failures of common
sense



Compensable Consequence

Late arising
compensable
consequence and how
to better anticipate
and understand the
scope of your case



Work Restrictions

Strategies to get
your employees
back to work



Increased Penalties

How to avoid the
recently increased
penalty provisions of
SB 1127

UTILIZATION REVIEW

Purpose of UR is to ensure medical treatments are medically necessary
Medical necessity is based on MTUS, ODG, and evidence-based medicine

p a i n p o i n t

Great idea . BUT is it working?

Delays in determination leads to
frustration and complication

Is it cost effective?

illu s t r a t i o n

Peer-to-Peer call don't always work

Evidence based medicine is a joke

\$100 for ibuprofen

Miscommunication results in litigation

UTILIZATION REVIEW

Solutions



Partnership

Between employer, TPA, clinic

Pre-authorization treatment list

Avoid partial approval



Communicate

Stakeholders discussion

Case-by-case differences

Share anticipated treatment outcomes



Better Outcomes

Work to achieve same goal

Faster recoveries

Reduces lost time

Reduces litigation

COMPENSABLE CONSEQUENCE

“Added Body Parts”

Subsequent injury that is a direct result of an original industrial injury

p a i n p o i n t

Often shows up late in the claim

Delays timely resolution of claim

Increases exposure and costs

i l l u s t r a t i o n

Overcompensation

Gait issues

Subsequent event caused by original injury

Surgical Complications

Depression from pain diagnosis

COMPENSABLE CONSEQUENCE

Tips to Mitigating Exposure



Catch Early

Review medical reports thoroughly

Revisit employee statement



Determine Causation

Investigate

Obtain both factual and medical evidence

Pursue medical history & records

Review EAMs and ISO index

Talk to the employee



Seek Early Resolution

Assess exposure to litigate versus opportunity to settle



Prevention

Correctly accommodate work restrictions

Communicate frequently

WORK RESTRICTIONS

p a i n p o i n t

Off- work status instead of work restrictions

Vague or incomplete work restrictions

Work restrictions that don't progress

Creates burden for employer and other employees to meet workload demands

Creates additional costs for OT, temps, etc.

Impacts morale, motivation, culture

illu s t r a t i o n

Fire fight three weeks post low back strain with MRI showing mild disc herniations with no objective evidence of radiculopathy

Scenarios

Employer has robust and well publicized accommodation and temporary work program

Employer has no temporary work available, no exceptions

Employer is case-by-case

WORK RESTRICTIONS

Solutions

01

Employer Perspective

Establish a RTW program or plan

- Creates an outline and institutional knowledge
- Less reinventing the wheel
- Publicize to employees

Plan

- Pursue accommodation discussion with department timely
- Consider the formalities of the offer (written, duties detailed)

02

Examiner / TPA

- Provide job description to physician
- Communicate employer's RTW program / plan

Seek clarification on restrictions quickly

Communicate work status timely to employer

- Time is money
- Consider introduction

03

Physician Perspective

- Timely reporting
- Seek out information on available work
- Respond to claims inquiries directly, even if short
- Consider reasonable and timely case specific temporary work restrictions



SB 1127: NEW RULES

Legislation for most presumptive claims
excluded COVID-19 claims

Shortened the investigation period

- Labor Code 5402(b)(2)
- 90 days for investigation reduced to 75

Significantly increased a penalty for
“unreasonably denied” claims

- Labor Code 5414.3
- Maximum penalty increased from up to \$10,000 to \$50,000

Extended the maximum temporary
disability period in presumptive cancer
claims

- Labor Code 4656(d)
- From 104 weeks to 240 weeks

illustration

Police officer experiences palpitations and nearly faints while exercising in her home gym, she goes to ER, tells the Department about the event, and requests and files a completed DWC-1 claim form. No employer form or the officer references a presumption.

Are we on notice of a presumptive claim?

- What do we want to know?
- What are the reasonable discovery steps?
- 8 CCR 10109 and case law on the duty to “reasonably and timely investigate”

What’s the applicable investigation timeline?

What are the steps to reach a compensability decision?

What’s the downside if incorrect?

SB 1127

solutions

Communication - ER with claims

- Immediate claims submission to TPA
- Claims - update all policies and forms to ensure staff awareness of timelines
- Claims - updates to reflect potential increase in TD period for cancer claims

Communication - Claims with Defense

- Identify claims that involve expedited investigation periods and proactively seek guidance if in doubt
- Use your team as a resource

Documentation

- Document the compensability decision process
- Identify employee non-cooperation

Defend - if penalty alleged

- Respond to any applicant communication on penalty
- Cite your communication and documentation



Thank you



Sunny White

Division Manager
Athens Administrators

tel. 925.826.1236
e. swhite@athensadmin.com



Jesus Mendoza

Partner
Laughlin, Falbo, Levy & Moresi

tel. 415.403.4375
e. jmendoza@lflm.com



Dr. Paul Kim, MD, MPH,
MBA, QME, FACOEM

Medical Director
Keystone Industrial Medical

tel. 909.521.8818
a. 1950 S. Sunwest Ln, Ste 108, San Bernardino
a. 17310 Bear Valley Rd. # 101, Victorville



Complete Session Surveys on the App

Find the App, Click on Events, Click on Browse by Day, Click on the Specific Session, Click on Rate Event.

