What Just Happened in...Workers’ Compensation

PARMA 40th Annual Conference
Monday, February 10, 2014
Session C4 3:45 p.m. – 5:00 p.m.
San Jose, CA

Presenters:
John E. Riggs
Tyrone Spears
Sharon Douglas
The Workers’ Comp Cycle

Presenter:

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The Workers’ Comp Cycle

Crisis
- High costs
- Poor outcomes
- System failing

Breakdown
- Major cost pressures
- Significant abuse
- Legal-Legislative changes
- Inadequate controls

Minor Reform
- Some cost/abuse issues addressed
- No systemic impact

Stabilization
- Cost declines
- Outcome improvements
- Adequate control tools

Major Reform
- System realignment

Erosion
- Moderate cost pressures
- Legal-Legislative changes
- Loopholes and gaming

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Need for Reform

Cost per claim increasing

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Need for Reform

Increasing premium cost for employers

<table>
<thead>
<tr>
<th>Year</th>
<th>Rate</th>
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<tbody>
<tr>
<td>2009</td>
<td>$2.10</td>
</tr>
<tr>
<td>2010</td>
<td>$2.25</td>
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<tr>
<td>2011</td>
<td>$2.32</td>
</tr>
<tr>
<td>1/12 - 6/12</td>
<td>$2.48</td>
</tr>
<tr>
<td>7/12 - 12/12</td>
<td>$2.60</td>
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<tr>
<td>Proposed Rate</td>
<td>$2.68</td>
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<td>for 1/13</td>
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Need for Reform

System Inefficiency

2011 System Costs (Billions)

- Medical: $6.67
- Indemnity: $6.75
- Expenses: $4.51

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SB 863: What it Does

- Increases Permanent Disability (PD) benefits at a billion
- Increases minimum/maximum weekly rates
- Creates $120 special fund for disproportionate earnings loss
- Streamlines the PD rating formula
- Deletes adjustable rating factor for future earnings loss
- Eliminates ineffective “bump-up/down” adjustments
- Eliminates “add ons” for sleep, sex and psyche conditions
SB 863: What it Does

- **Speeds and improves** resolution of medical disputes
  - Creates an “**Independent Medical Review**” (IMR) process
  - Decisions made by medical professionals, not judges
  - Mirrors process used for years group health environment

- **Reduces and resolves** medical billing disputes
  - Places obligations on vendors who file “liens” against employers
  - Obligates employers to provide an “explanation of review” with payment
  - Creates an “**Independent Bill Review**” (IBR) process
  - Establishes formal prices for several services that currently get billed at “market rate”
Where are we now?

- Cost savings cannot be realized without full implementation
- Regulations still being drafted
- Public Hearings are still scheduled
  - Regulations close to finalization
  - Many adopted as “emergency,” but still under review
  - Employers need to support the implementation effort and guard against attacks
Independent Medical Review

Independent Bill Review
✓ Decisions available at http://www.dir.ca.gov/dwc/ibr.htm

GET INVOLVED!!
Call Me – Email Me
City of Los Angeles

Presenter:
Tyrone Spears
Workers’ Compensation Administrator

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City of Los Angeles Workers’ Compensation Program

– Approximately 40,000 Employees

– 16,000 open claims

– In-house Claims Management Operations & Third Party Administration of Claims
What Just Happened??!! Post SB-863 Challenges

– Increased PD
– New Supplemental Job Displacement Voucher System
– IMR vs. Qualified Medical Evaluator (QME)/Agreed Medical Evaluator (AME)
– Liens
– Medical Treatment Cost
– Prolonged Settlements
City of Los Angeles Strategy

• Medical Treatment Cost Containment
  – Established a First Care Panel of clinics to provide initial medical treatment to injured workers
  – Provided the First Care Panel physicians with pre-authorization for various ancillary services through our preferred providers
  – Coordinated Utilization Review (UR) certification letters to include the name & contact information for our preferred providers
City of Los Angeles Strategy (cont.)

• IMR/UR
  – The City of Los Angeles utilizes our in-house nurse to review all Request For Authorizations (RFAs) & UR adverse determinations
  – Our model takes a proactive approach to minimize any delays in treatment
  – Worked with Utilization Review Organization to develop a comprehensive self-authorization list to reduce delays in treatment to the injured worker
City of Los Angeles Strategy (cont.)

- **Liens**
  - Aggressively defend all liens:
    - We pay what is due to the provider(s) & object to the rest
  - Successfully defend against unauthorized medical treatment, pharmacy & other medical services by:
    - Timely submitting bills to UR for retrospective review
    - Timely objecting to the bills listing all defenses
  - The City of Los Angeles has been successful at the WCAB defending liens & obtaining “Take Nothing” orders
Settlements and Dispute Resolution

– The City of Los Angeles has a carve-out program for a portion of our claims

– The Alternative Dispute Resolution (ADR) program successfully:
  • Reduces claims cost
  • Speeds up dispute resolutions over AOE/COE, PD & other claim disputes
  • Arranges med-legal appointments faster
  • Moves cases to settlement earlier
Questions
SB 863 & Independent Medical Review (IMR) Overview

Presenter:
Sharon Douglas, CEO
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Overview of Regulatory Changes

Request for Authorization (DWC Form RFA)

• Encourages Claims Administrator (CA) to accept only the official form

• Requires oral treatment requests be accompanied by a written form

• NEW! CA can accept an unofficial form but “Request for Authorization” must be written on the top of the first page & all treatment requests must be indicated on the first page
Overview of Regulatory Changes

DWC Form RFA (cont’d)

• Can be mailed, faxed or emailed & electronically signed by agreement of parties

• Any official version can be used until 3/1/2014

• NEW! Expedited reviews that do not reasonably establish the injured worker faces imminent & serious threat to their health shall be reviewed under standard timeframes
Overview of Regulatory Changes

Requests for Additional Information

• A request can be denied on the 14th day if the CA or reviewer requested & did not receive information reasonably necessary to make a determination (prospective & concurrent reviews)

• A request can be denied on the 30th day if the reviewer requested & did not receive an additional exam or test, or if reviewer needs a specialized consultation & review of medical information by an expert reviewer
Overview of Regulatory Changes

Internal Utilization Review (UR) Appeals

• Can be made by the injured employee (IE) or treating physician & must be submitted to the CA

• Requests must be made within 10 days after receipt of the UR decision [previously 15 days]

• NEW! CA has 30 days after receipt of an internal UR appeal to issue a determination
Overview of Regulatory Changes

Internal UR Appeals (cont’d)

• An IMR application must be sent with a modified decision on an internal UR appeal

• NEW! The Independent Medical Review Organization (IMRO) (Maximus Federal Services, Inc.) has 30 days to issue a final IMR determination following an internal UR appeal that has been modified
Overview of Regulatory Changes

Definitions
- “Immediately” means within 1 business day [previously 24 hours]

- “Written” includes a communication transmitted by facsimile or in paper form. *Electronic mail may be used by agreement of the parties although an IE’s health records shall not be transmitted via electronic mail*

Routine Investigations
- Investigations will be initiated at least once every 5 years [previously 3 years]
IMR

• Envelope must be provided to the IE only

• NEW! IMR form amended
  – Any official version can be used until 3/1/2014
  – Authorized Representative Designation form must accompany IMR

• IE must send copy of their application to the CA

• Administrative Director (AD) may consider an application ineligible if the requesting physician failed to provide requested additional information
IMR

• **NEW!** CA must provide 6 months of medical records from the *requesting physician* to the IMRO [previously 1 year]

• The IMRO may consolidate applications in a single determination if they involve the same IE, date of injury & requesting physician

• **NEW!** The IMRO has 30 days to make a determination following a modified decision on an appealed UR determination
IMR

- Mental health records to be withheld from IE

- **NEW!** If CA fails to submit medical records, the IMRO may issue an IMR determination based on a summary of medical records listed in the UR determination & any documents submitted by the IE or requesting physician

- **NEW!** The AD shall retain the right to determine the eligibility of a request for IMR until:
  - An appeal of the final IMR is issued
  - The medical necessity dispute has been filed with the WCAB or the appeal period has expired
## IMR – Volume of Applications

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<thead>
<tr>
<th>Month</th>
<th>Applications</th>
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<tbody>
<tr>
<td>January</td>
<td>1</td>
</tr>
<tr>
<td>February</td>
<td>7</td>
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<tr>
<td>March</td>
<td>78</td>
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<tr>
<td>April</td>
<td>178</td>
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<tr>
<td>May</td>
<td>256</td>
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<tr>
<td>June</td>
<td>350</td>
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<td>July</td>
<td>4,410</td>
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<tr>
<td>August</td>
<td>15,731</td>
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<td>September</td>
<td>14,990</td>
</tr>
<tr>
<td>October</td>
<td>Est. 20,000</td>
</tr>
<tr>
<td>November</td>
<td>Est. 20,000</td>
</tr>
<tr>
<td>December</td>
<td>Est. 20,000</td>
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## IMR – Timelines

<table>
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<tr>
<th>Maximum Time Allowed</th>
<th>Stages of the IMR</th>
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<tbody>
<tr>
<td>30 days</td>
<td>IMR request submitted</td>
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<tr>
<td>15 days</td>
<td>AD determines eligibility</td>
</tr>
<tr>
<td>5 days</td>
<td>Additional time AD has to determine eligibility if additional information is requested</td>
</tr>
<tr>
<td>30 days max</td>
<td>1 day</td>
</tr>
<tr>
<td></td>
<td>1 day</td>
</tr>
<tr>
<td></td>
<td>15 days</td>
</tr>
<tr>
<td></td>
<td>5 business days</td>
</tr>
<tr>
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<td>80 days</td>
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IMR – Ineligible Applications

- Incomplete applications

- Liability disputes
  - Issue at dispute is not medical treatment
  - Denied claim

- UR denied due to absence of medical records

- NEW! The AD retains the right to determine the eligibility of a request for IMR until an appeal of the final IMR determination has been filed with the WCAB or the time for such an appeal has expired
IMR – Delayed Applications

- Missing documents
- Missing signature
- Missing UR determination letter
- Missing or vague information
  - Treatment requested not specified
  - Original IMR form has been altered