

Medical Advisory Committee

May 10, 2022
Via Teams

Tennessee Room
220 French Landing Drive
Nashville, TN 37243

The meeting was held in the Tennessee Room with telephone and virtual options available. All attended via TEAMS. The use of the virtual platform is a benefit to the public, allowing participation of out-of-state stakeholders and others interested in the subjects of this meeting. It is necessary for establishment of a quorum that the members have the virtual option available. The committee rules provide for the members to be counted as present for the determination of a quorum (see rule **0800-02-23-.04 (2-3)**).

Members:

Rob Behnke, Cracker Barrel
Lisa Hartman, R.N.
Misty Williams, R.N.
Lisa Bellner, M.D.
Cerisia Cummings, D.O.
Ginny Howard, Zurich
David Tutor, M.D.
Richard L. Cole, D.C., DACNB, DAAPM, FICCN,
FICC(H)
James Gregory Kyser, M.D.
John Brophy, M.D.
Jeff Hazlewood, M.D.

Guests:

Jonathan May, Morgan and Morgan
Tiffany Gryzbowski, HealthSystems
Fran Sweatt, Vanderbilt
Terry Horn, Vanderbilt
Roy Johnson, MTOEM
Christopher Chappell, Erie Insurance
Judy Bobbitt, TOA
Alex O'Neal, Arbitech
Ken Eichler, AMA
Jim Schmidt, Schmidt Government Solutions
Yarnell Beatty, TMA
Chris Scoma, Upstream Rehabilitation
Susan Stewart
David Price, Preferred Medical

Via telephone:

John Brophy, MD
Chris Scoma
Ginny Howard

Staff:

Abbie Hudgens, Administrator, BWC
Robert Snyder, MD, Medical Director BWC
James Talmage, MD, Assistant Medical Director BWC
Troy Haley, BWC
Suzy Douglas, BWC
Jacob Terrell, BWC
Jennifer Schneider, BWC
Lacy Conner, BWC
Keisha Matchum, BWC

Call to Order

Dr. Tutor called the meeting to order at 1:05 PM.

Quorum

A quorum was confirmed. (13 members present, 1/3-6-needed for a quorum).

Approval of Minutes

A correction was made to Telehealth in the minutes of 1/18/2022 by Dr. Bellner: amend TCA 63-1-155 C 3 to allow licensed pain management clinicians to treat patients via telemedicine if the prescriber does not issue a prescription for a controlled substance. TMA will meet on May 17th to see if they will take that to the House of Delegates (May 20th to May 22nd).

If 50% of patients in a clinic are prescribed controlled substances, it is considered a pain clinic and these patients cannot use telehealth.

Dr. Cole made a motion to accept the minutes as amended. Dr. Kyser seconded.
The minutes were adopted as amended, no dissent.

Conflict of Interest

No COI forms are due at this time.

Old Business

ODG Update:

As of April 1st, there are 10 pages of technical corrections, but no new items of significance as far as treatment options.

Ms. Williams motioned to accept and was seconded by Dr. Cole.

The committee voted to accept the ODG updates of 4/1/2022, no dissent.

AMA Guides®:

Dr. Talmage presented the background of changes to the AMA edition. When the AMA publishes a new edition, the Medical Advisory Committee is to make a recommendation to the administrator within 6 months of its release. If she concurs with a positive recommendation, then legislation is requested.

AS of 1/1/2021 the 6th Edition 2021 was the most current; 6th Edition 2022 is the most current as of 1/1/2022. The chapter on mental disorders, Chapter 14, was updated in 2021. Some of the diagnostic criteria has changed, new versions of tests were listed and used DSM-5. Global assessment of function has a poor reliability and has been dropped. This leaves only 2 standardized sets of questions.

For 2022 there was insertion of additional language in chapters 1 and 2. If patients are rated, the most current version of the Guides® should be used.

AMA does not plan to print any more 6th Edition books but use a digital version. The digital version costs \$279.00 per year.

Dr. Kyser said that technical changes of stopping GAF and having only 2 scales for impairment. It is more advantageous to the employer than injured workers; it would lower impairment ratings and IME's. Kentucky still has not adopted the current model and ratings are higher than in Tennessee.

His assessment is that psychiatric ratings are more in favor of the employee using the current edition than the 2021 update. He would suggest not changing because it will be more biased against the employee and more expensive to administer for clinicians and attorneys.

Dr. Hazlewood asked if only psychiatrists should do psychiatric ratings? The discussion mentioned that qualification of an expert in deposition leans in favor of a board-certified psychiatrist. The rating does not have to be done by a psychiatrist according to the regulations.

Other states that have adopted the "most current" mental disorders chapter are Wyoming and Arizona. It is unknown about results of changes.

Changes for 2022 are very minor.

For 2023, the neurology and spine chapters are under discussion.

Mr. May commented on problems posed by this choice of the AMA and possible solutions. There are legal questions which could complicate matters. Ms. Hudgens said that the 6th Edition must still be used as long as that is what the state has adopted.

Mr. May observed that the Editions will evolve over the years raising questions about validity and application. Ms. Hudgens responded that changes in spine might require more conversation. There is no reason to change right now. Premature changes might not be in the best interest of the state worker's comp system.

The difficulty in finding mental health providers for workers' comp does not help it.

There was a motion made to defer the vote on 2021 and 2022 AMA updates pending additional information. This was motioned by Dr. Kyser and seconded by Dr. Brophy. The committee accepted the motion. No dissent.

Telehealth Update:

A Telemedicine change which was referred to earlier passed in the April 1, 2022, General Assembly. Mr. Beatty confirmed that parity payment is permanent.

Medical Fee Schedule:

Medicare changed "split/shared services" for physicians' assistants and nurse practitioners and how those are billed.

Payment is 180% Medicare for PM&R and Occupational Medicine physicians, but Dr. Bellner said that they are having trouble getting paid. The Bureau is working on a notification of the change to be sent to the insurers and to add a modifier to assist. It was noted that in 2005, increases in fees for neurosurgeons and orthopedists as well faced some challenges in notifying payers.

Other changes to the Fee Schedule are being worked on, such as CPT codes used for things other than standard code (billing), and moving to special Z codes, peculiar to Tennessee.

Dr. Bellner observed that the modifier in E&M codes are very tedious for billers and confusing to payers and billers. Dr. Snyder responded that this is understood by the Bureau and that these will have special Z codes to simplify the process.

Rules and Legislation Update:

Troy Haley reported that the legislative session which ended 4/28/2022 was quiet for workers' comp.

PC 715 had technical changes with appeals and term extensions for judges.

A firefighter cancer presumption was broadened but the governor has not signed it yet.

The firefighter PTSD bill did not pass because of fiscal issues and as well as a bill that would have added law enforcement to the emergency COVID presumption regulation.

For July 1, 2022, **PC 856**: virtual and audio meetings will be allowed but there will be audio recordings required.

Cannabis legislation did not pass for Delta 8,9, 10. One bill adds quadriplegics that allows lawful possession of cannabis oil, but it has not been signed yet.

There will be a public hearing at 1:00 PM June 28, 2022, on the Certified Physician Program rules.

UR Update and Report:

There is one penalty referral for a UR denial. The UR doctor denied the UR without records. A response was received from the URO.

UR appeals filed by attorneys have increase to over 40% of all appeals received.

For the first quarter of 2022, pain related UR is 33% of appeals and 30% are major invasive procedures.

For decision made, 56% procedures appealed were upheld as not medically necessary and 59% of opioids.

To a question about how long a determination is effective: for appeals determination, and the determination of the UR doctor, are good for six months unless there are substantial changes to the medical condition documented in the record.

The age of people when they file a claim is not tracked but injuries dates (prior to 2014 and after) are tracked.

Reward and Certified Physician Program:

Suzy Douglas spoke about the REWARD program. There is a lot of information on the website.

There is an employer meeting on Thursday, May 12, 9:30-11:00 AM to discuss return-to-work programs. The meeting has both a virtual and an in-person option (hybrid).

The topic of how to communicate with physicians will be discussed at a later meeting.

There will be speakers.

The Certified Physician Program is designed to promote better knowledge and communication of the workers' comp program to individual physicians. It is 2/3 of the way through the content of material. CME credits will be available. By the next MAC meeting, the program should be up and running.

Covid Update:

At the end of March there was a total of 13,780 first reports filed for COVID in Tennessee. Of these cases, ~8,200 were denied. There were 1626 cases that had benefits paid. Fifty-one fatalities were reported with 36 of these denied.

None of the court cases have been finalized or opinions on the cases released.

There have been requests received for specialists for individuals affected by long COVID. Baptist in Memphis and Vanderbilt have long COVID clinics.

Long COVID evaluation and treatment are evolving medical issues. Patients should be evaluated and started on some form of treatment or therapy.

New Business

Access to Care:

Subspecialties in medicine interested in WC, need to be referred to The Bureau so that we can provide them training (if they are interested) and information—psychiatry, cardiology, neurology, pulmonology, etc.

Physician Education Program:

The annual Physician Education Program is this Saturday at 8:00 AM at the Bureau.

Annual Bureau Educational Conference:

August 15 through 17, 2022 in Murfreesboro.

Meetings:

It is anticipated that the committee will continue via Teams with a likely hybrid option and format.

Committee Appointments:

As of July 1, 2022, a number of reappointments to MAC and MPC committees are pending. Letters will be sent. Dr. Snyder encouraged all to accept and continue their participation, service and interest.

Reappointments are for 4 years.

Next Meeting:

Tuesday, September 20, 2022, 1:00 PM CDT.

Adjournment:

2:15 PM