

Medical Advisory Committee

July 17, 2018

TOSHA Conference Room
220 French Landing Drive, Side A
Nashville, TN 37243

Members:

Misty D. Williams, RN, Travelers
Lisa Hartman, RN, AFL-CIO
David Tutor, MD, Occupational Medicine,
Chair
John Brophy, MD, Neurosurgery
James G. Kyser, MD, Psychiatry
Jeff Hazlewood, MD, PM&R, Pain
Management
Lisa Bellner, MD, PM&R Pain Management
Robert Snyder, MD, Medical Director
Keith Graves, Doctor of Chiropractic
Medicine
Ginny Howard, Zurich, on the phone
Randall Holcomb, MD, Orthopaedic
Medicine, on the phone
Marty Blane, Pharm. D.
Suzy Douglas, RN, BWC
Jennifer Schneider, BWC
Jasmine Martin, BWC
Suzanne Gaines, BWC
Abbie Hudgens, BWC
Troy Haley, JD, Legislative Liaison
Mark Finks, JD, BWC

Guests:

Yarnell Beatty, Tennessee Medical
Association
Lou Alsobrooks, Smith Harris Carr
Adam Jaynes, MNA Gov. Relations
Desiree Anderson, Schmidt Government
Solutions
Judy Bobbitt, Tennessee Orthopedic
Alliance
Brian Allen, Mitchell
Faith Parrish, VUMC
Terry Horn, VUMC
Cindy Hutchison, TriStar
Carol Campbell, Automated Healthcare
Solutions
Ashlee Walden, TOA
Carter Phillips, MNG Gov. Relations
Toni McCaslin, HealthTrac
Larry Brinton, Careworks MCS

Via telephone:

Ken Eichler, VP, ODG-MCG
Sushil Mankani, MD, Liberty Mutual
Tonya Cain, RN, Eckman/Freeman
Ginny Howard, RN, Zurich North America

Sandy Shtab, HealthSystems
David Price, PRIUM/Genex
Becky Troope, Healthsystems

Call to Order

The meeting was called to order at 1:05 PM by the Chair, Dr. Tutor.

Quorum

A quorum was confirmed as present (1/3 of the members needed, 12/16 members present).

Approval of Minutes

Minutes of 4/10/2018 meeting were revised with the following changes:

Dr. Brophy suggested that to be included on the list of active work comp providers, the status should be defined. To be counted as an active WC provider, the physician should be qualified to perform causation, see some minimum number of injured workers, and be able to give MMI and PI. [added to the 4/10/2018 minutes]

The motion to accept the revised minutes was made and accepted.

Conflict of Interest Forms

There was a reminder to sign and return the Conflict of Interest forms.

Old Business

ODG UPDATE

Changes for April, May and June were distributed to the committee.

The revised recommendations were discussed. Dr. Bellner described problems that arise when decisions are made without physician input. Dr. Bellner, Dr. Hazlewood and Dr. Tutor discussed POC saliva testing and this type of drug-testing can be useful at the doctor's office. Dr. Snyder pointed out that no POC testing matches DOT criteria for cutoff levels or reliability.

Committee members may use access to ODG and to the new MCG platform. Mr. Eichler offered training.

Functional Capacity Evaluation changes with significant implications were raised by Dr. Brophy. He discussed concerns about the recommendation for an FCE prior to work hardening. If a patient goes through work conditioning/hardening, why not get the FCE after? It was noted that there have been some patient injuries through work hardening. Misty Williams noted that this is very fact and situation specific. Dr. Snyder volunteered to accept viewpoints are forward to ODG.

LEGISLATIVE UPDATE

Troy Haley reported that the Medical Payment Committee, the Medical Advisory Committee and the Bureau all received a six year extension of the Sunset Law.

The legislation concerning attorneys' fees that were wrongful denials have been extended for two years with a clarification in what "wrongfully denied" means.

There is no longer a need for an "in-state" workers' comp claims office in Tennessee.

The "Marketplace Platform" bill contains the current "seven factor" test to help determine an independent contractor from an employee.

Farm and Agriculture workers may now explicitly be covered by an employer for WC.

Worked based learning may now be covered under WC.

The opioid bills were to be discussed later.

RULES UPDATE

The voluntary Adjuster Certification rules went into effect May 31, 2018: 0800-02-27.

New general rules also went into effect on May 31, 2018: 0800-02-01.

Drug Free Workplace Program revisions went into effect May 6, 2018: 0800-02-12. Changes included separation of alcohol and drug testing procedures, new additions to the list of tested drugs, new "cut-off" levels, and allowed policy charges by employers.

E-billing rules became effective July 1, 2018, 0800-02-26.

A new SD-2 form is to be used, 0800-02-21.

COMPOUND DRUGS

With the formulary implementation, compound drugs and topical required prior approval through insurers and PBM's. Dr. Snyder presented data from one company that supported the cost saving effect. Since they are not FDA approved for this use, the rule has been helpful. Dr. Bellner was pleased that the formulary now includes Voltaren gel as a helpful addition to the ODG.

Dr. Snyder presented another correspondence indicating improvement in opioid use with the guidelines and other measures. The physicians and Dr. Snyder with UR appeals have noticed lower MMEs due to multiple factors.

Opioid treatment guidelines from ODG conform to the new TNTTogether rules.

A copy of Dr. Jackson's article on Relief Retreats was distributed.

OPIOIDS IN WC PATIENTS

A study between the Department of Health and the Bureau, using data of injured workers (First Reports of Injuries) with the pharmacy data base (Controlled Substances Monitoring Database-CSMD), 2013-2015 was presented. Among injured workers who received opioids during the study period, only 20% used WC as a payer source. 7% used WC and another payer source for opioids. 2% used multiple doctors (>3) and pharmacies (>3), 1185 patients. The study will follow through the end of 2018. The implications will require some study.

OPIOID BILLS

PC 675: requires reporting of suspected opioid abuse dispensing by physicians or use by patients.

PPC 883: requires e-prescribing of opioids by 2020.

PC 901: requires written and informed consent, counseling and other information be acknowledged by the patient before prescribing.

PC 1007: mandates partial fill with no second co-pay for the partial fill. It will not show as two different dispenses on the data base.

PC 978: sets some new duties for the Department of Mental Health and Substance Abuse Services.

PC 1039: **TNTogether** limits dosages and supplies, requires an ICD-10 codes and informed consent by the pharmacist. Dr. Snyder distributed information from the TNTTogether website, the Tennessee Medical Association (TMA) and the State Volunteer Mutual Insurance Company (SVMIC).

PC1040: added a number of synthetic opioids to the "banned" list.

Dr. Tutor observed that tramadol is widely used after surgery.

MEDICAL MARIJUANA

Dr. Snyder updated the present status of medical marijuana, considerations identified by the Bureau and a new sponsor for next year's bill. He made observations about what Florida has required of physicians and some issues involved. Medical marijuana is a schedule one drug. It is not reimbursed and is still a federal offense. There is no requirement in Florida for education in pharmacology to prescribe marijuana. In Florida and other states, there are lawsuits to prevent the state from controlling the method by which marijuana can be delivered.

E-BILLING UPDATE

Dr. Snyder updated the committee on e-billing. Some companies have requested that the Bureau delay implementation of e-billing. Mr. Haley outlined the Bureau's restrictions under state law. It cannot delay e-billing but can grant exemptions. Organizations of payers have requested exemptions and ten or eleven have been granted. Penalties are not anticipated at this time.

Dr. Brophy observed that carriers are not prepared for e-billing and there is a problem with retro claims.

ACCESS TO CARE

The next meeting of the Medical Advisory Committee will be focused on identifying issues, evaluating and suggesting solutions to problems of access to care. Is access a problem in some geographic locations? What approaches will improve access? What are the friction points?

New Business

PHARMACY QUESTIONS

Dr. Snyder distributed advisory information concerning pharmacy and the treatment guidelines.

A call-in participant, Sandy Shtab of HealtheSystems, requested information about pharmacies, drug formulary, fee schedule and prior approval. She will be sent this information.

UTILIZATION REVIEW DATA

The table of the Utilization Review appeal reflects the groupings for all UR appeals that are currently in the UR tracker. It shows the activity of the fiscal years, 2016, 2017 and 2018. There have been closures for over 1200 appeals/year averaging over 100 UR determinations/month. At the receipt of a UR review request, there is a five day waiting period before issuing an opinion. The UR review is divided into six major categories. To assure consistency and accuracy, 40 cases were reviewed for quality control between Dr. Talmage and Dr. Snyder. Trends in the number of denials were observed: ESI should be restricted based on new evidence, diagnostics are allowed within 60 days of injury and changes in pattern of major procedures.

CPS ANNOUNCEMENT

Abbie Hudgens had information about CPS closures from Dr. Dreyzehner and what it means to pain management. There are 15000 patients on doses of 150 MMEs or above. The clinics are no longer seeing patients; there are about 5000 WC patients in Tennessee seen by CPS. Dr. Snyder warned that the outcomes are likely to be an increase in emergency visits and requests to pain providers. Patients want them to take over their care.

One solution might be to authorize family physicians to take over pain management but they are not inclined to do so because of the new rules.

Dr. Hazlewood declared he does not want to inherit high dose patients. He observed that the physician who last treated a patient can be charged with murder if his name is on the prescription of the patient who dies. This is possible even if he is not the regularly treating physician.

Patients on high dose medications can be very risky to treat but are in great need of treatment. This is a physician's dilemma. Patients can also get very hostile and even threatening.

Ginny Howard said that the stress of the worker's comp carriers is that they must provide care. The physician either gives medications or refuses to treat. The carrier is threatened with litigation because they can't provide medical care. In this case, patients might go to emergency care.

Terry Horn and Faith Parrish both agreed that stops are put on prescriptions in their system.

Yarnell Beatty said that there is a problem of overreaching regulation.

There are not enough physicians to care for patients.

Dr. Hazlewood pointed out that physicians have the right to refuse to see patients who present a threat.

GRANT

Abbie Hudgens announced that the state was preparing a grant for early August to develop innovative strategies to help injured workers get back to work, whether the injury is worker's comp or not. This is a \$2,500,000 grant to eight states. These states are trying to keep injured employees from dropping out of the workforce.

Next Meeting: 10/30/2018 1:00-3:00.

Adjournment: 2:50