

Medical Advisory Committee

March 17, 2020

Tennessee Room, Side A, 220 French Landing Drive, Nashville, TN 37243

Members:

John Brophy, M.D., Neurosurgery
James Talmage, M.D., Assistant Medical Director
Cerisia Cummings, D.O., Bridgestone
Robert Snyder, M.D., Medical Director
Abbie Hudgins, Administrator
Mark Finks, Attorney, BWC
Suzanne Gaines, BWC
Suzy Douglas, BWC

Members Via Telephone:

Misty D. Williams, R.N., Travelers
Ginny Howard, Zurich
James G. Kyser, M.D., Psychiatry
Keith Graves, D.C., Chiropractic
Jeff Hazlewood, M.D., PM&R, Pain Management
Lisa Bellner, M.D., PM&R, Pain Management
Troy Haley, BWC Attorney

Guests:

Toni McCaslin, Heathtrac
Judy Bobbitt, TOA

Via Telephone:

Roy Johnson, M.D.
Patrick Robinson, ODGbyMCG,
Ken Eichler, Corvel

Call to Order: Dr. Snyder called the meeting to order 1:10

Introductions: Committee members and guests

Quorum: established (10 of 16, 8 needed)

Minutes: The minutes of January 28, 2020 were approved as distributed.

Old Business.

ODG Update:

Although no February update, the highlighted sections on the ODG sheets that indicated changes were reviewed and accepted by voice vote, no dissent.

Dr. Snyder noted that ODG has accepted recommendations from Dr. Hazlewood on opioids for reconsideration and Dr. Brophy's recommendations concerning cervical surgery.

Telemedicine update:

Mark Finks has drafted rules to be presented to the next Subcommittee meeting. It will then come to the committee.

UR Working Group Report:

Case summaries:

- 1) Forced settlement of old law claims: there is not enough information to be able to determine intent. The working group discussed this at length. It would take a lot of detective work and depositions to find out if there was internal communication concerning using this tactic (expensive). In spite of this, individuals who are having claims forced close should still bring the problem to committee.
- 2) The second presentation was where the UR reviewer used the wrong diagnosis. This was sent to penalty.

3) In this case, the reviewer was not licensed in Tennessee: also sent to penalty.

Further data was presented about studying UR activity. A subset of shoulder surgeries for the second quarter of 2019 would yield about 100 cases. By looking at the outcomes of those approved, information about the appropriateness of approvals could be gleaned. By looking at those that were denied, was harm done?

UR Statistical Update:

Data was presented for four years by quarter, the 6 categories were reviewed. No discernable patterns could be established. When asked, Dr. Snyder opined that the application of the guidelines is virtually unknown or unused by the providers but universal by the UROs.

For another question, are the ombudsmen receiving complaints about UR? The data indicate that of the 4000 quarterly calls, 300+ had to do with some sort of medical care issue. Other than that group, most were a failure of the adjuster to respond to a question from the provider or patient about a request for treatment. As far as can be determined only a small fraction was actually a delay in treatment. Since most activity in the Bureau is compliant driven, the extent of the problem is not known.

Legislative Update:

Troy Haley reported COVID-19 changes for the legislature would likely take up necessary bills in 8-10 weeks, June.

Worker's comp bills were rolled over, not clear whether to June or to the next session.

The Telehealth bill passed through senate commerce committee and it is behind budget. The bill is moving forward.

Medical cannabis has been put off until after recess.

HB2054 got moved to summer study, the PA bill to become panel and do MMI, PI and causation.

HB2101---regarding independent nurse practitioners did not pass and did not advance.

Access to Care Report:

The final report was distributed to the committee members with the agenda. It is divided in four major areas:

- 1) Pressure on service
- 2) Financial issues
- 3) Communications tools
- 4) biases

Other brief descriptions were given:

- 1) Measuring service availability for quality and better outcomes?
- 2) Alternative providers increased use for better outcomes in longer term care.
- 3) Specialty access restricted access is some perceptions of financial frustration and fear of paperwork on the part of providers.
- 4) Financial incentives/reimbursements, incentives to providers means money from payers. Bill review discounts are a very real frustration for the providers. The response is either contracts or pay-in-advance. Some limits are suggested.
- 5) Networks, Tennessee has panel requirements.
- 6) UR Review needs evaluation of some of the mechanisms or abuses.
- 7) Medical Records--EHR technology has failed to provide its promise.
- 8) Correspondence issues, there is a need for information in a timely manner.
- 9) Built in bias in all parts of the system.
- 10) Patient advocacy and return to work remains important.

The report is needed to identify possible solutions to problems. It is anticipated that the committee will need to further discuss and move forward with concrete suggestions.

Observations from the members:

Silent PPO--Worker's Comp fee schedule should be the mandated fee schedule for Worker's Comp under state statute. The fee schedule should be honored. Should there be a "no less than" number rather than a "no greater than" number? It was suggested to set

the fee schedule and leave out “no more than”. Don't let the fee schedule leave a lot of wiggle room.

Worker's comp patients are difficult to care for so it is important to reimburse worker's comp doctors appropriately. The difficulty and reimbursement problems might put off some specialist doctors from treating worker's comp patients.

Worker's comp should be separate from group health in negotiations.

Discounts are often done by computer or automatic transfer.

There is an assumption that the provider is part of a PPO, even if provider is not. Then the provider is paid by PPO rate--the burden of proof should be on the carrier.

There are problems in small print, such as right to sell contracts. It is hard to get the carrier to provide copy of discount or contract. Bill review discounts are usually contracts with the carrier, rather than the provider. Who signed the contract? Who is bound by the contract? It is nearly impossible to trace these contracts.

Adversarial relationship between doctor and patient. Physicians need to be paid what is agreed upon between insurer and physician. No further discounts should be taken.

Discussion of problems with healthcare coverage leads to WC being the default policy.

With a worker's comp patient, the physician must often deal with psychological aspects as well as physical.aspects meaning extra work.

Employed doctors work on RVU which is a disincentive for doctors to take worker's comp patients. Add RVU figures to Fee Schedule: 1.6 x Medicare RVU,

C30A, depositions.

Doctors are paid in large practices by very different mechanisms.

PPO bill passed in 2016 seems insufficient. The Bureau investigates if PPO was not licensed by Bureau, and there would be a penalty if not licensed by C&I. there is limited enforcement provisions.

The Tennessee BWC cannot insist on the fee schedule without legislative approval.

Dr. Snyder called for input on this report.

New Business:

Psychological support services:

Dr. Snyder reported ICD10 codes F06 and F07--psychological disturbances second to diagnosis for CBT. He distributed some CPT® codes to be used.

Many members encourage support for secondary psychological problems coming out of an injury as a way to improve return-to-work.

The insurers do not cover most behavioral disturbances so they put CBT under the trauma ICD codes.

How do you get psychological behavioral services covered?

It is hard to get good therapists because of fear that once cognitive behavioral therapy is engaged, the claim will turn into or add a psych claim. Support from CBT could get people back to work sooner.

Annual conference:

is still on.

Legislative Update:

The telehealth bill passed a Senate committee.

Next Meeting:

Tentative date until further notice. 5/19/2020

Adjournment:

2:50 PM.