Issues in Workers’ Compensation

- Managing patients on Long Term Opioid Narcotics for Chronic Pain – Concerns and Recommendations
- Physicians Prescribing and Dispensing Medications from their Offices – Rx W/C Fees Will be Changing
- High Quality Documentation of Care Leads to Improved Payments for Care
- Edits to Colorado’s Impairment Rating Tips
Managing Workers’ Compensation Patients on Long Term Opioids for Chronic Pain – Concerns and Recommendations
Opioids use in Chronic Pain Patients Cause for Concern

- “Opioid Prescriptions for Chronic Pain and Overdose”,
  http://www.annals.org/contents/152/2/85.abstract
  - “The potential for patient drug overdose, including death, is higher when higher doses of opioids are prescribed for chronic pain.”
  - “Conclusion: Patient’s receiving higher doses of prescribed opioids are at increased risk for overdose, which underscores the need for close supervision of these patients.”
Opioids use in Chronic Pain Patients Cause for Concern

- Prescribing physicians are beginning to be scrutinized more by State Licensing Medical Boards as the number of patient overdoses and deaths occur.
- Physician documentation of patient monitoring is imperative.
Increasing Opioid Prescriptions and Cost in Workers Compensation

- Oxycontin is ranked #1 based upon highest cost of all prescriptions dispensed in workers’ compensation between 2001-2005.

NCCI’s "Workers Compensation Prescription Drug Study 2007 Update", November 2007
## Most Frequently Prescribed Drugs in WC Ranked Using Total Prescription Drug Dollars Paid between 2001-2005

<table>
<thead>
<tr>
<th>Drug Name</th>
<th>2005</th>
<th>2004</th>
<th>2003</th>
<th>2001-2005</th>
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<tbody>
<tr>
<td>Vicoden</td>
<td>1</td>
<td>3</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>OxyContin®</td>
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<td>1</td>
<td>1</td>
<td>1</td>
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<tr>
<td>Oxycodone HCL</td>
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<td>83</td>
<td>24</td>
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<td>Actiq®</td>
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<td>20</td>
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<tr>
<td>Fentanyl</td>
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<td>--</td>
<td>--</td>
<td>45</td>
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<tr>
<td>Oxycodone HCL/Ace</td>
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<td>28</td>
<td>52</td>
<td>31</td>
</tr>
</tbody>
</table>

NCCI’s “Workers Compensation Prescription Drug Study 2007 Update, November 2007
Actions physicians can take to try and avoid problems with patients taking opioids

- The prescribing physician should use appropriate resources that are available in their individual states or professional organizations.
- Colorado Workers’ Compensations requires the use of the:
  - *Division of Workers’ Compensation Chronic Pain Disorder Medical Treatment Guidelines and*
  - *Also review the Colorado State Board of Medical Examiners’ Policy # 10-14, “Guidelines for the Use of Controlled Substances for the Treatment of Pain.”*
Actions physicians can take to try and avoid problems with patients taking opioids

- Urine or blood testing
  - Use appropriate sensitivity for all opioid metabolites and other drugs tests as necessary
  - Recommended before starting patients on long term use of opioids

- Prescription Drug Monitoring Program (PDMP)
  - Make sure you are aware of what the patient is being prescribed from other providers and pharmacies

- Functional Status of injured worker
  - Keep them moving and involved – do not over sedate
  - Assess and discuss with the injured worker any activities that could pose a possible harm to the injured worker or the public.
While the injured worker is receiving chronic opioid management, additional drug screens with documented justification may be conducted. Examples of documented justification include the following:

- (i) Concern regarding the functional status of the patient
- (ii) Abnormal results on previous testing
- (iii) Change in management of dosage or pain
- (iv) Chronic daily opioid dosage above 150 mg of morphine or equivalent
CO Workers’ Compensation Chronic Opioid Report Fee Requirements

- Codes and maximum fees for the authorized treating physician for a written report with all the following review services completed and documented:
  - (1) Ordering and reviewing drug tests
  - (2) Ordering and reviewing PDMP results
  - (3) Reviewing the medical records,
  - (4) Reviewing the injured worker’s current functional status
  - (5) Determining what actions, if any, need to be taken.

- Bill using code DoWC Z765 $75.00 per 15 minutes
  - maximum of 30 minutes per report
Physicians Prescribing and Dispensing Prescriptions from Offices:

State Workers’ Compensation for Rx Fee Schedule will Change. The question is Why and How?
Workers Compensation RX Drug Fee Schedules

- Approximately 34 states use Average WholeSale Price (AWP) to determine the maximum fees under their workers compensation RX drug fee schedule, including CO

- State Rx Fee Schedules create the maximum fee:
  - $+ or - % AWP + a dispensing fee per prescription ($2.00 to $6.00)
What Repackaging Companies Cause…

- Repackaging companies:
  - Buy drugs in huge quantities from the manufactures at a very low dollar; then repackage the drugs into appropriate dispensing quantities
  - Create their own NDC code and AWP rates for the repackaged drugs
  - Market to physician offices to sell the repackaging companies pre-packaged drugs for significant revenue to the physicians offices
Why is 1st Data Bank Important?

- 1st Data Bank produces
  - And publish the “Blue Book” Rx values
  - The data base payers use to determine maximum Rx fee agreements using AWP.
AWP Class Action Lawsuit Against 1st Data Bank – Eliminates AWP

Class action lawsuit settlement agreement approval included but not limited to:

- Reduced the mark-up factor utilized in connection with the calculation of the Blue Book AWP data field to 1.20 times the Wholesale Acquisition Cost (WAC) or Direct Price for those NDCs that are on a mark-up basis.
AWP Class Action Lawsuit Against 1st Data Bank – Eliminates AWP

- Class action lawsuit settlement agreement approval included but not limited to:
  - Affected 1400 drug NDC code AWP values, in their published “Blue Book” as of September 26, 2009
- 1st Data Bank decided to adjusted all other drug AWP calculations using the same calculation and time frame as covered under the class action settlement
- AWP data element will be eliminated from 1st Data Bank’s data set and “Blue Book” in 2011
What is happening now?

- Pharmacy Benefit Management (PBMs) organizations forced to renegotiate contracts with various pharmacies

- Market is trying to determine what published data element will be used to create a fee:
  - Average Sale Price (ASP)
  - Average Manufactures Price (AMP)
  - Federal Financing Participation Upper Limits (FFPUL)
  - Another data element??
What is happening now?

- Not sure what will become the maximum Rx fees in state workers’ compensation fee schedules; unclear where the fees will be set.
- Whether to pay for drugs that are dispensed from physician’s offices may or may not be allowed because of the increased cost associated with repackaging companies.
High Quality Documentation of Care
Leads to Improved Payments for Care
High Quality Documentation of Care

- Leads to
  - Planning and documenting progress of quality of care
    - Better diagnostician, hence higher quality of care for patient
  - Timely Resolution of medical/legal issues
    - Documentation that clearly indicates what the physician did or did not do may lead to reduced legal actions against physician.
  - Selecting the correct billing code(s)
    - Possibly reducing the number of payment adjustment and or denials
  - The correct payment being received quicker.
Planning Care includes Treatment Plans

- A written plan of care includes, but not limited to:
  - Create treatment goals with the injured worker. If the injured worker “buys-into” the goals, then they are more likely to follow the treatment plan. These goals must be realistic, obtainable and measurable.
  - Involve the injured worker in their treatment!
Documenting Care includes…

- Reason for the patient encounter and chief complaint
  - Clearly specify why the patient is returning to your office
- Appropriate history and physical relevant to the reason for the patient encounter.
Documenting Care includes...

- Diagnostic tests must clearly identify what:
  - test is being ordered and the medical necessity of the test; and

- If tests were performed and reviewed by the physician
  - specify what the test told you or how it influenced your diagnosis or direction of care/diagnosis/treatment.
Documenting Care includes…

- Any referrals and consultations
  - Include why the referral or consultation is being made.
    - Clearly document your consultation request in your records and to the consulting physician.
    - Example: Requesting Dr. Smith, Neurologist, to provide a consulting opinion, including neurodiagnostic testing, on Ms. Jone’s left hand numbness and tingling.
Documenting Care includes...

- Any referrals and consultations
  - Create good referral or consulting physicians networks
    - Agree upon who will determine MMI and perform impairment ratings and how that will be communicated to the insurance adjuster.
  - Agree upon:
    - who will manage the entire workers compensation case; and
    - what to do if any one of the treating providers believes there should be another discipline of care involved in the care.
Documenting Care includes…

- Identify:
  - The specific treatments being prescribed and why they are “reasonable and necessary”.
  - How long and how frequent the treatments will occur, and when the treatment will be evaluated for effectiveness.
  - If a treatment is effective or not and if it is not effective, then stop the treatment and re-evaluate. Re-evaluate the diagnosis, and prescribe other possible appropriate effective treatments.
Documenting Care includes…

- Medications
  - Specify what drugs the patient is taking and what drugs were prescribed and for what purpose.
  - Identify the dosage, frequency and possibly for how the drug will be necessary to determine if it is effective.
Documenting Care includes…

- Educate/Counseling the Patient and/or family….
  - Injury/illness
  - Treatment options
  - What the patient can do and not what they can not do beginning with the first encounter after the injury.
  - Prevent the “disability mind set” as much as possible
  - Injury prevention and or ergonomics and or proper body mechanics and or return to work

- Time face to face with the patient providing counseling.
Documenting Care includes…

- Provide written and verbal follow-up patient instructions
  - Home exercises
  - Medication management
  - Any appropriate possible signs of complications and what action the patient should take if these complications occur
    - Wound Redness, temperature etc..
Documenting Care includes…

- Coordination of Care
  - Who you talked to and why and the outcome of the conversation
- Time face to face with the patient coordinating care.
Documenting Care includes...

- Entire time of the patient was face to face with the physician during an E&M visit
  - Not performing procedures or diagnostic tests – needs separate report for separate procedures or diagnostics
  - All procedures and/or diagnostic tests should be documented in a separate report. (25 or 57 modifier)
Quality Documentation Leads to…

- Higher quality of care because you are able to be a better diagnostician, hence better “roadmap” for what care is effective.
- No question regarding what was or was not done during the patient encounter, which provides a clear basis for any legal challenges.
- Supporting the appropriate billed levels of E&M services
- Faster payment received.
Edits to Colorado’s Impairment Rating Tips:

- Partial Shoulder Joint Replacement
- “Palpable defect” when rating Abdominal Hernias.
- Post MMI treatment requires going through the rating process if the treatment or medications are ordered after MMI.
Partial Shoulder Replacements is not in the AMA Guides 3rd Revised Edition

- The AMA Guides allows a 30% rating for a total implant arthroplasty of the shoulder.
  - Defined as an implant of the humeral head accompanied by resurfacing of the glenoid with any substance including metal, polyethrane or soft tissue graft.

- Hemi arthroplasty the rating will generally be 20% and includes resurfacing of the humeral head via a resurfacing cap or stemmed humeral replacement.
  - Combine the 20% with ROM and any peripheral nerve impairment ratings

- Crepitus and synovial changes should not be rated because it is presumed the surgical procedure has eliminated those anatomical derangements.
Reminder when Rating Hernias

- There are three classes of hernia impairment ratings in the 3rd Revised edition of AMA Guides.

- At a minimum, a “palpable defect in the supporting structures of the abdominal wall” must be documented to qualify for an impairment rating.
A full impairment assessment is necessary if post MMI meds or Tx are ordered at the time of MMI.

- According to the 3rd Revised Edition of the AMA Guides, the patient is presumed to have a possible permanent change in the injured body part if Post MMI “Grover Meds or Txs” are ordered by the physician. This necessitates that the physician go through the impairment rating process.
A full impairment assessment is necessary if post MMI meds or Tx are ordered at the time of MMI.

- The impairment rating maybe “zero” after going through the process, but the rating must be evident.
- Not every patient needs to have an impairment rating done; however, “if the rating physician provides an assessment of zero, or no impairment, yet orders post-MMI treatment, this should be reconciled and justified in the physicians closing report.”
Colorado Division of Workers’ Compensation Changes

- Web site address will permanently change!  
  http://www.colorado.gov/cs/Satellite/CDLE-workComp/CDLE/1240336932511
- Director, Bob Summers, is retiring
- New Medical Policy Unit Supervisor, Dan Sung
- Medical Fee Schedule Update (Rule 18)
- Medical Benefit Payment procedure changes, Rule 16-11
- Final Shoulder Medical Treatment Guideline is on the Division’s web site
- Division is currently working on updates to the Cumulative Trauma Disorder (CTD)
Thank You!