Physician advisory review and Division independent medical exams in Colorado – and a Pinnacol Assurance update.

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Physicians' roles in claim management
Background – Workers’ Comp medical direction, from 2011 Colorado WC Act:

“The director shall contract with the medical school of the university of Colorado for the services of a medical director to advise the director on issues of... case management... consult with the director on peer review... Such medical director shall be a medical doctor licensed to practice in this state with experience in occupational medicine”.

"Case management" means a system developed by the insurance carrier in which the carrier shall assign a person knowledgeable in workers‘ compensation health care to communicate with... (the) treating physician to assure that appropriate and timely medical care is being provided.
16-9 PRIOR AUTHORIZATION:

- A prescribed service exceeds the recommended limitations set forth in the medical treatment guidelines.
- The medical treatment guidelines otherwise require prior authorization for that specific service.
Rule 16-9 initially requires:

- Payer to respond to providers within 7 business days.
- Provider to present relevant supporting documentation.
Contesting a request for prior authorization then requires:

- Review by Colorado licensed physician
- Reviewer may call the attending physician
- Explanation of the specific medical reasons
- Name and professional credentials of the reviewer
- Citations from the medical treatment guidelines as appropriate to the issue being reviewed
Example: 42yo male with post-traumatic arthritis – recommended for ulnar shortening osteotomy

- Kentucky claim management purported to have staffed this with a physician advisor, November 2010.
- Un-named physicians performed “peer review... and/or discussion with (un-named) contracted Physician Advisor”.

Example: 42yo male with post-traumatic arthritis –

- Inaccurate citation of medical facts regarding the patient.
- Inaccurate references to the Colorado Medical Treatment Guidelines.
- Partial literature citation without full reference to the study, editorial or letter to the editor.
Example: 42yo male with post-traumatic arthritis – outcome

- Appealed directly and through the Division of Workers’ Comp, December 2010.
- Received call from Colorado physician advisor; discussed case and the proposed surgery was approved.
- Surgery done March 18, 2011.
- Patient full duty at same employer and at MMI by July 18, 2011.
Pinnacol Assurance Physician Advisors

A program deemed successful by both employers and injured workers...

- Community physicians
- Multiple specialties
- Report generated by both approvals and denials
- Name and professional credentials of the reviewer
Physician advisory review – Questions?
Handling disputes involving impairment and MMI

**Sequence:**

- A claimant receives an MMI assessment and impairment rating from the treating physician.
- The physician’s report is sent to the claimant and to the insurance company or the employer.
- If one of the parties wishes to dispute the physician’s findings, that party MUST request a Division Independent Medical Examination (DIME) before taking that dispute to a judge.
- The DIME doctor’s conclusions have a higher level of credibility when (if) considered by a judge.
DIME Program Utilization

• On average, about 30,000 claims per year are reported to the Division of Workers’ Compensation.

• On average, a Division IME is requested in about 10% of those claims. [Conversely, 90% of claims are settled and closed with no litigation on the issues of MMI and impairment—this does not preclude litigation on other matters.]

• In the last 4-5 years, DIME cases have become more complex.
  • In 2008, more than 50% of DIME requests involved 4 or more body parts or systems.
Quality Review of Division IME Reports

• About 2,400 – 2,800 DIME impairment reports completed each year
• Each report reviewed by Division IME staff
  ◊ Additional support & review by a specialist, who may write individual letters to doctors as needed
• New doctors on DIME Physician Panel have all their reports (for a time) reviewed by specialist
• Staff considers whether impairment rating followed the correct protocols and checks for other elements that should be included in the report; they do not question clinical judgments.
• Currently about 11.5% of DIME reports are returned to physician to address a problem (down from 15% in 2006)
OUTCOMES – DIME Program

- DIME report medically closes the case unless a party wishes to dispute the DIME findings at a hearing before a judge.
- DIME Program may be the best "measure" of effectiveness of the impairment rating system applied in Colorado.
- Is the only way a dispute over impairment or MMI may be litigated.
- Statistics on disputes prior to 1991 reforms not available, but reasons for reforms included reducing medical costs and litigation.
OUTCOMES – DIME Program

- The DIME often facilitates settlement.
- In cases where a DIME was held: 7-9% actually go to hearing (currently fewer than 250/year). Not certain that in all these cases, the DIME was the primary issue. For example *:
  - **1998** – Administrative Court heard 110 cases specifically concerning DIME matters – 3.7% of approx. 3,000 DIMEs held
  - **2010** – Court heard 63 DIME matters - 2.6% of approx. 2,400 DIMEs held
- In most (but not all) cases, the DIME’s opinion is upheld. Further appeals are infrequent.
Colorado Division Independent Medical Examinations - Questions
Privatization of a state workers' compensation fund – the future?
Pinnacol Assurance – timeline and political currents...

- State Compensation Insurance Fund established 1915; had an advisory council of 12, two from the General Assembly and the balance consisting of employers and covered employees appointed by the Governor.
- State Compensation Insurance Authority 1987; changes made in the board, still appointed by the Gov.
- Colorado Compensation Insurance Authority 1990; still a board appointed by the Gov. but with one position filled by a person “experienced in the management and operation of insurance companies”.
Pinnacol Assurance – timeline and political currents...

- Pinnacol Assurance 2002; charged by the legislature to “operate as a domestic mutual insurance company”. Also, provided for reserves not accrue to the state treasury but into a Pinnacol reserve fund, where “all revenues... belong solely to Pinnacol Assurance. The state of Colorado has no claim to... such moneys...”

- Colorado legislature proposes to transfer money from the Pinnacol Assurance fund to the Colorado general fund, Spring 2009.

- Solicitor General, April 10, 2009: “Unconstitutional”.
Pinnacol Assurance – timeline and political currents...

- CEO Ken Ross rewarded top brokers selling insurance policies to Colorado policyholders with a trip to Pebble Beach (the one in California).
- Confrontation with TV camera crew led to loss of his $163,115 bonus – Denver Post March 3, 2011.
- Costs of junket cited at more than $300,000.
Pinnacol Assurance – what would you do if you were the CEO?

- Successfully sell Governor Hickenlooper on privatization of Pinnacol Assurance.
- Proposal to provide insurance in other states.
- 60% shares to policyholders, 40% State of Colorado.
- Dividend to State: 50% education, 50% business development.
- Convene a “Stakeholders” panel, November 2011.
- Colorado Medical Society member appointed.
- Process moves to legislature Spring 2012.
This proposal did not pop out of the ground...

- Set up separate from the state of Maine.
- Levied a ‘capitalization fee’ from policyholders; this yielded $47 m by 1998. The fee program ended.
- Began operating in other states, including Colorado.
- By 2009, MEMIC had returned over $110 m to the policyholders who had been levied the fee.
And another example...

- Led to fire sale of Accident Fund for $262 m to Blue Cross Blue Shield; money went to the State.
- Policyholders excluded by state supreme court on technicality of Accident Fund not being a mutual insurance company.
- Now licensed in 49 states, including Colorado.
Market Structure in States
State-controlled vs. Fully private markets

- State-controlled competitive funds
- State-controlled monopoly funds
- Fully private markets since inception
- Fully private markets from recent privatizations
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Workers’ compensation benefits per $100 payroll:

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### Premium rate rankings (1 = highest, 51 lowest)

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Conclusion – privatization of Pinnacol Assurance is uncertain at this point.