



WORKERS COMPENSATION ADVISORY COUNCIL MEETING

Members Present:

Patrick Robinson (Chair)
Ray Peters
Joe Shine
Julie Cherry
Denis Juge
Michael Morris
Greg Hubachek
Troy Prevot
Eddie Crawford
Joesph Jolissaint
Chuck Davoli
Clark Cossé, III
Dr. Jim Quillen

Members Absent:

Bob Israel
Dr. Dan Gallagher
Dr. Hank Eiserloh
Mark Kruse

- **Legislative Update**- Start at 3:30pm
 - **SB256 (Martiny)** - Formulary Bill (Time stamp 9:14:30)
 - Proposed substitute bill included in handouts. The substitute has not been filed and the bill may be deferred or withdrawn.
 - At previous WCAC meeting, the council unanimously opposed SB256
 - **Troy Prevot**- bill names ODG as formulary
 - **Greg Hubachek**- It also speaks about a superboard like MAC
 - **Julie Cherry**- It says whoever is overseer can accept, object or modify updates as presented
 - **Patrick**- the bill requires adoption of the ODG formulary, but the proposed pharmacy review panel may review future changes to the ODG formulary and adopt them at the panel's discretion.
 - **Dr. Quillen**- Question re Appendix A of ODG for drug listing
 - Response via **Troy Prevot**- All drugs that are in N category like narcotics and all drugs that are deemed of concern by a medical profession. All Y drugs are going to be your regular drugs like antibiotics, anti-inflammatories, anti-depressants.
 - Reply by **Dr. Quillen**- it shows Celexa / Citalopram which are non-narcotic, non-schedule anti-depressant, that's \$4 at Walmart, are listed as an N drug.
 - Response via **Troy Prevot**- it may be one that causes concern when someone takes multiple versions of anti-depressants. The formulary is NOT cost driven; it is based on evidence. If you continue reviewing the document, it will tell you exactly why it is classified the way it is.

- **Patrick**- Why require ODG instead of having MAC consider numerous formularies from multiple states?
 - Response via **Michael Morris**- latest discussions of bill would allow the MAC to look at that. The key is not just finding a formulary that list Ys and Ns since that's easy to find. The key is having the medical guidelines to go along with that. There really isn't nothing out there expect ODG. Washington is closest but it doesn't have the words to help the layman understand.
 - Response via **Troy Prevot**- another issue with other formularies is they are cost-driven
 - **Patrick**- ODG will be updated which requires less resources
 - **Dr. Quillen**- normally there's a list of alternatives
 - **Chuck Davoli**- in 2008, we rejected Texas ODG and ended up looking at Colorado. It was based on previous guidelines and evidence based medicine. Now we are not talking about that formulary in the bill but buying the Texas formulary, tied to Texas ODG, tied to National Work Loss Data Institute and doesn't give our positions must flexibility at all. Variances - which we all know what Dr. Rich's testimony was in that 19th JDC case about the realistic way to do variances in the guidelines. We have to be able to remedy a more efficient way to take up 1010s and 1009s on the variances.
 - **Joe Jolissaint**- Most think if it's a Y drug, you will get approved. However, with ODG it may just be for 1 or 2 visits then it's an N drug.
 - **Troy Prevot**- Like which drug?
 - **Joe Jolissaint**- muscle relaxer
 - **Michael Morris**- You can't just have an open end approval. Just know I oppose the bill.
 - **Greg Hubachek**- Presenter of bill isn't here. After MAC decides on possible updates, the Director decides what is higher evidence?
 - **Julie Cherry**- There is a hierarchy of evidence
 - **Michael Morris**- the Director of the OWCA would have to promulgate the rule
- **Patrick**- Anything on Y list would not require a 1010?
 - **Michael Morris**- per healthcare provider, per payor per claim if you hit \$751, an authorization has to accompany. It may be non-compensible or unrelated issue which would incur costs. This may lead to things getting jammed and not being paid. So initial authorization is needed, after a Y drug would not need authorization as long as it is dispensed in accordance with duration requirements.
 - **Patrick**- If meds are pre-approved under formulary but something comes up later that impacts compensability, where does that fit in?
 - Response via **Michael Morris**- catch 22.
 - **Patrick**- Would something similar to the modified 1010 process for E&M visits work for pharmaceuticals?
- **Robin Krumholt** [*audience*]- She has concern for clients who have been on medicines for years and years, that may now be on an "N" list.

Clients may go without meds while waiting for Medical Director's decision on a variance.

- **Patrick**- in TX formulary there is a 2 year grace period in effectiveness. What do you do about those addicted to meds?
 - **Chuck Davoli**- formulary should “Maintain functional capacity with utilization of the drug”
- **Michael Morris**- ODG has weaning protocols in guidelines. Payor would owe to the injured worker the weaning protocols.
- **Jenny Valois, Esq.** [*audience*]- TX has a mandatory interlocking order in place; process up front for legacy claims
- **Patrick**- If you have someone on a narcotic and for whatever reason an approval is delayed, is that an emergency treatment?
 - **Michael Morris**- No, there's a specific rule
 - **Joe Jolissaint**- Need teeth in 1010s to get response
- **Dr. Quillen**- this is a terrible bill.
 - **Clark Cossé, III**- don't like cost shifting
- Chuck moved to oppose drafted substitute bill, Greg second
 - Proposed substitute bill unanimously opposed
- Re public comment from last meeting indicating that OWC has already selected a formulary and is not being transparent in the process
 - **Patrick**- comment was made at the last WCAC meeting stating that the OWC has already selected a formulary. A number of emails were provided to me ostensibly supporting that contention. I reviewed all of the emails and there is nothing supporting the contention or indicating that the office has acted improperly. Anyone concerned about that contention is welcome to review the emails.
- **HB205 (Gaines)** – Medical Treatment Dispute/1203.1 Bill (timestamp 9:42:10)
 - No changes to bill; schedule to be heard by House Labor on May 7th
 - Present council vote 6-4 of opposition
- **HB393 (Lorusso)** – Group Self-Insured Investment Bill (timestamp 9:43:13)
 - House Labor- referred out of committee 13-0
- **SB107 (Peacock)** – Second Injury Fund Bill (timestamp 9:43:49)
 - Extends current schedule through June 2020
 - Council unanimously supported at last meeting
 - Goes to Senate Labor on May 7th
 - **Troy Prevot**- taskforce to study Second Injury Fund
 - **Patrick**- 5.33% return of benefits paid
 - **Joe Jolissaint**- 2nd injury vs aggravation
 - Chuck Davoli was chairman of previously appointed task force to review SIF; he will reconvene with Troy Prevot and get with Pauline Williams (OWC). Pauline has the minutes from the prior meetings of the task force.
 - **Patrick**- need to speak to employers about hiring pre-injured workers, make them aware of the purpose and benefits of the SIF in order to achieve its purpose, i.e. hiring workers with permanent partial disabilities
 - **Troy Prevot**- expressed concerns regarding difficulties getting claims paid/approved

- **Patrick**- 18% claims submitted to the SIB are approved. Many are filed due to the approaching deadline, and are either withdrawn or not pursued. Of the claims that are denied, only a small percentage is appealed to the district court.
- **Update from 1008/Answer Form Task Force** (timestamp 9:51:32)
 - Judge Lundeen met with Greg Hubachek & Denis Juge for a 2 hour meeting.
 - Went through 1008 Answer, 1010, 1009, 1002 & 1011
 - Removed redundancies and obsolete items
 - Create admin efficiency and fix time delays
 - Draft ready for May 28th meeting
- **Kids' Chance Fundraiser**, May 8, 2015 (timestamp 9:53:22)
- **Agency Update**
 - **Fee Schedule** (timestamp 9:53:57)
 - Update prepared by June; draft to council & stakeholders by June 25th meeting
 - Submit to August Register
 - **Clark Cossé, III**- questions that need to be answered before June. See submitted handout.
 - Mtg with Sherie Phillips on Tuesday
 - **Troy Prevot**- If ICD09 is contemplated, how is mandate or ICD10 going to be on fee schedule
 - Response via **Patrick**- fee schedule will have ICD10.
 - **Severe Burn Codes** (timestamp 10:00:03)
 - Final Rule in ~~June~~ May Register
 - **MTG Update#1** (timestamp 10:00:28)
 - Notice of Intent published in ~~June~~ May Register
 - Mainly form update
 - **MTG Update #2** (timestamp 10:00:55)
 - Notice of Intent probably published in July
 - Addressed in April MAC meeting
 - **Correction of Electronic Billing Rule** (timestamp 10:01:30)
 - Rule still says 60 days although statute was change to say 30 days; OWC will file amended rule to correct error with Register.
- **New Business** (timestamp 10:02:24)
 - Patrick- questions were raised publicly about “Why are we paying 4 million dollars to attorneys” in Washington.
 - For clarification, the payments are for a settlement of a lawsuit that started in the 1990s about overpaid premiums in the 2nd Injury fund. That resulted from when the premiums were changed from a premium basis to a benefit basis.
 - Initial judgment in favor of Board but then reversed on appeal. Claimed damages were \$33 million. Case settled for \$16million, paid over four years from 2011 to 2014.
 - Questions concerning OWC activity can be better addressed to the OWC, versus internet gossip.
- **Adjourn** at 4:23pm