

Controlling Medical Costs in PA Workers' Compensation Claims

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Rising healthcare costs are recognized as a key problem in the workers' compensation industry. Medical costs once constituted 30 percent of the total workers' compensation claims expenses; today, however, they represent 50 to 60 percent of claim costs. Due to the high frequency and severity of injuries, the number of medical bills processed has increased by 40 percent in the last three years.

Once a claim has been accepted, the employee is entitled to payment of "reasonable surgical and medical services." This includes medicine and supplies, hospital services, and orthopedic devices. In order to be compensable, all treatment must be reasonable, necessary and directly related to the work injury. If not, payment can be denied.

The Pennsylvania Workers' Compensation Act offers a number of ways to control medical costs:

1. **Panel Providers** – an employer is allowed to create a list of panel providers. If the list is put together within the requirements of the law, only treatment by panel providers is compensable for the first 90 days after the work injury. If the employee chooses to treat outside of the panel, the employee is responsible for payment. This is an opportunity for the employer to determine which health care providers share compatible views on return-to-work philosophy and treatment plans. For the panel to be

valid, the law has specific requirements. For example, it must include at least six designated providers and must be posted in a place where the employee has routine access (such as the cafeteria or by the time clock). This is a simple way to control costs during the first 90 days of a claim.

2. **Utilization Review Request** – the PA Workers' Compensation Act requires that treatment be reasonable and necessary. If there is a question as to either initial or ongoing reasonableness or necessity, the treatment can be challenged through a Utilization Review. The process begins when the insurance company receives a bill or notice of upcoming treatment. The claims professional can file a Utilization Review Request with the Bureau of Workers' Compensation. Immediately upon filing, payment for the treatment in question is put on hold. The Bureau then assigns the review to a provider of the same specialty. If the treatment is found to be unreasonable or unnecessary, no payment is made. If it is reasonable and necessary, then the bills must be immediately processed for payment. Both parties have the right to appeal. This process can be used for any type of treatment. Utilization Reviews are typically used to challenge chiropractic treatment, narcotic medication and "orthopedic devices"

such as hot tubs, special mattresses and scooters.

3. **Independent Medical Evaluations (IME)** – at any time after the injury, the employee can be asked to attend a physical exam by an expert, selected and paid for by the employer. This is an opportunity to have the claim reviewed by an impartial expert. The case need not be in litigation. The expert can be asked to address a wide range of issues – prognosis, review of treatment plans, alternate and less expensive treatment options. The IME can also be used in conjunction with the Utilization Review process. By itself though, the IME's usefulness is limited because the expert's opinions are not controlling. Further action must be taken to effectuate any reduction or changes to an employee's medical treatment, and may require litigation.
4. **Peer Review** – if a case is in litigation, a judge or either party may request the services of an independent expert to examine the employee, and/or his/her records, to report on the necessity or

frequency of treatment. This request can only be filed by the judge. While the findings of the Peer Review provider are not binding, a judge can accept those findings to determine that treatment is not appropriate, and thus not compensable. Peer Review has been used in cases where the injury is unusual and/or the treatment is uncommon (for example, off-label uses of medication, non-FDA approved procedures).

In addition to options provided through the Workers' Compensation Act, you also have the ability to work directly with your employee to suggest alternate and less expensive types of treatment. For suggestions or any additional information, please feel free to contact me at (717) 651-3507, spfellin@mdwgc.com, or at Marshall, Dennehey, Warner, Coleman & Goggin, 100 Corporate Center Drive, Suite 201, Camp Hill, PA 17011.



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