

2017 Priorities for the DWC

COA's 2017 QME Course

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Anti-Fraud Measures

- **Automatic Stay of Liens**

- Labor Code section 4615
- Liens filed by physicians or providers who are criminally charged with workers' compensation fraud, medical billing fraud, insurance fraud, and Medicare or MediCal fraud automatically stayed pending the disposition of criminal case.
- Stay by operation of law

Anti-Fraud Measures

- **Provider Suspension**

- Labor Code section 139.21
- California Code of Regulations, title 8, sections 9788.1 – 9788.4
- Convicted of any felony or misdemeanor that involves fraud or abuse of Medi-Cal, Medicare, or workers' compensation system, or fraud or abuse of any patient; license revoked or suspended; suspended, due to fraud or abuse, from Medicare or Medicaid programs
- Notice of Suspension
- Hearing; Order of Suspension

Anti-Fraud Measures

- **Lien Consolidation Proceedings**

- If the disposition of the criminal proceedings provides for dismissal of liens, the liens will be dismissed with prejudice by operation of law.
- If the disposition of the criminal proceedings doesn't address the disposition to be made of the liens pending in the workers' compensation system, the liens will be identified, consolidated and subjected to special lien adjudication proceedings.
- Assigned for hearing before workers' compensation judge
- Presumption that liens connected with criminal activity

Anti-Fraud Measures

- **Lien Declaration**

- Labor Code section 4903.05
- <http://www.dir.ca.gov/dwc/SB1160-AB1244/SB1160.htm>
- All liens for medical treatment subject to the filing fee, must be accompanied by a declaration signed under penalty of perjury affirming that the dispute is not subject to independent bill review and verifying that the lien claimant is eligible to file that lien.

Anti-Fraud Measures

- The declaration requires that the entity filing the lien indicate on what basis they are eligible to file the lien.
- For liens filed on or after January 1, 2017, the declaration must be filed at the time of filing the lien. For all liens filed before January 1, 2017, the declaration must be filed by July 1, 2017.
- The failure to file the declaration will result in the dismissal of the lien with prejudice. The filing of a false declaration will serve as grounds for dismissal of the lien with prejudice.

Anti-Fraud Measures

- **No Lien Assignment**

- Labor Code section 4903.8
- The original provider of goods or services is the lien owner.
- Liens must be filed in the name of the lien owner only and that no payment shall be made to any lien claimant without evidence that they are the owner of the lien.
- For liens filed on or after January 1, 2017, assignment of liens is barred unless the provider has ceased doing business. Any assignment of a lien by a provider in violation of this provision is invalid by operation of law.

Updates to the MTUS Treatment Guidelines

- Updates to Current MTUS Topics
 - General Approaches
 - Neck and upper back
 - Shoulder
 - Elbow
 - Forearm, wrist, and hand
 - Low back
 - Knee
 - Ankle and foot
 - Stress (Mental Health)
 - Eye
 - Chronic pain
 - Opioids

New Treatment Guidelines

- New Topics to be added
 - Hip and groin
 - Interstitial lung disease
 - Occupational asthma
 - Traumatic brain injury

MTUS Formulary and Guidelines

- The State of California requires the use of the MTUS Guidelines and Drug Formulary for physicians treating workers' compensation cases.
- Since the proposed updates to the MTUS treatment guidelines and formulary are built on the foundation of ReedGroup's ACOEM Practice Guidelines and Formulary, [a commercial license from ReedGroup is required when providers use the guidelines to treat patients.](#)
- Purchase your annual commercial license to the ACOEM guidelines and formulary at a discounted rate of \$100/year:
<http://go.reedgroup.com/MTUS>
- [Comments on ACOEM Guidelines or Formulary?](#)
 - <https://www.acoem.org/PracticeGuidelines.aspx>
 - <https://acoem.formstack.com/forms/stakeholderpatientinp>

AB1124 - Formulary

AB 1124 directed the DWC to create a workers' comp formulary.

- <https://www.dir.ca.gov/dwc/MTUS/MTUS.html>

Goals & Structure

- **Goal:** Adopt an evidence-based drug formulary, consistent with the MTUS, to augment provision of timely and high-quality medical care, while reducing administrative burden and cost
- Accomplished through Formulary **structure**
 - MTUS Treatment Guidelines – The Backbone
 - MTUS Drug List
 - Preferred drugs – No Prospective Review if in accord with MTUS
 - Non-Preferred & Unlisted Drugs – Prospective Review required
 - “Special Fill” & “Perioperative Fill” of specified Non-Preferred drugs
 - Ancillary Formulary Rules

Preferred Drugs

- Preferred Drug Criteria
 - Being noted as a first line therapy weighs in favor of being preferred.
 - Recommended for most acute and or acute/chronic conditions addressed in clinical guidelines weighs in favor of being preferred.
 - A safer adverse effects (risk) profile weighs in favor of being preferred.
 - Drugs listed for the treatment of more common work-related injuries and illnesses weighs in favor of being preferred.
- No Prospective Review if in accord with MTUS

Additional Medication Designations

- Preferred Drugs
- Non-Preferred & Unlisted Drugs – Prospective Review required
- Special Fill Medications
 - 4 day supply of certain Non-Preferred drugs in limited situations
- Perioperative Fill Medications
 - No prospective review of certain Non-Preferred drugs during the perioperative period

Ancillary Formulary Rules

- Intended to support the provision of appropriate, cost-effective, high quality medical care
 - Access to non-preferred and unlisted drugs
 - Off-label use
 - Generic drug preference; requirements for brand name drug
 - Compounded drugs
 - Physician dispensing

MTUS Formulary Drug List

	Drug Ingredient	Preferred / Non-Preferred*	Special Fill**	Peri-Op***	Drug Class	Reference in Guidelines
1	Acetaminophen	Preferred			Analgesics - NonNarcotic	✓⊙ Ankle and Foot Disorders ✓ Cervical and Thoracic Spine Disorders ✓ Chronic Pain ✓× Elbow Disorders ✓ Eye ✓× Hand, Wrist, and Forearm Disorders ✓ Hip and Groin Disorders ✓ Knee Disorders ✓ Low Back Disorders ✓ Shoulder

Structure of MTUS Drug List

- Organized by active drug ingredient
- Preferred / Non-Preferred status
- Special Fill & Perioperative Fill (✓) Recommended
- Drug class (×) Not Recommended
- Reference in Guideline “legend” (⊙) No Recommendation

Formulary Legend Example

Reference in Guideline “legend”

(✓) Recommended

(✗) Not Recommended

(⊙) No Recommendation

63	Dantrolene Sodium	Non-Preferred			Musculoskeletal Therapy Agents (Muscle Relaxants)	✗ Cervical and Thoracic Spine Disorders ✗ Chronic Pain ✗ Hip and Groin Disorders ✗ Knee Disorders ✗ Low Back Disorders ✗ Shoulder		
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Some Additional Provisions

- Provision regarding Special Fill - DWC to evaluate effect on injured worker's use of opioids
- Provision re: health & safety regulations such as California occupational Blood Borne Pathogens standard
- DWC may maintain and post a listing by National Drug Codes (NDC) of drug products on the MTUS Drug List
- Quarterly Updates
- P & T Committee

DWC Online CME Courses

MTUS Education Module

- Instruction on how to use the MTUS.
- Available online without charge.
- Free CME credit.
- Example cases.
- <http://www.dir.ca.gov/dwc/CaliforniaDWCCME.htm>
- Next course under development: QME

Utilization Review

- **Limited UR Within First 30 Days of DOI**
 - Effective 1/1/2018, prospective UR would not be required for emergency services, medications as designated under the new formulary, and services provided by a predesignated physician, MPN or HCO providers, or employer-selected physicians or facilities within 30 days of the initial date of injury.
 - The services must relate to an accepted body part or condition that is addressed by the MTUS, and the treatment plan must be outlined in the report required by Section 6409 and accompanying request for authorization. All treatment rendered must be consistent with the MTUS.

Utilization Review

- Specific services, such as surgery, psychological treatment, home health care, MRIs, and DMEs over a total expenditure of \$250 based on OMFS pricing, would require prospective UR
- Bills for treatment rendered under this provision must be submitted within 30 days of the treatment date
- Providers who fail to timely submit the report and request for authorization outlining the treatment plan may lose their ability to provide treatment to that injured employee that is exempt from prospective UR during the remainder of the 30-day period.

Utilization Review

- An employer may conduct retrospective UR for any treatment provided solely for the purpose of determining if the provider is prescribing treatment consistent with the MTUS.
- If providers have a pattern and practice of providing treatment inconsistent with the MTUS, they could lose their ability to provide UR-exempt treatment for any employees or be removed from the MPN. Additionally an employer has the option to file a petition requesting a change of physician.

Utilization Review

- **UR Process Changes**

- Formulary treatment requests are subject to expedited UR and IMR, requiring a decision within five days from receipt of the treatment request.
- Decisions denying treatment due to lack of sufficient information to make a medical necessity determination must include a specific description of the information needed and document details regarding the attempt to obtain the information.
- A UR decision to modify or deny treatment remains in effect for 12 months with no action needed on similar request by the same physician or another physician within the requesting physician's practice group, unless there is a documented change in material facts.

Utilization Review

- Employers and Utilization Review Organizations (UROs) are prohibited from offering financial incentives to physicians based on the number of UR denial or modification decisions they issue.
- Claims administrators cannot refer matters to a UR entity in which the claims administrator has a financial interest unless there is a prior written disclosure to the employer and AD of the name of the UR entity and the financial interest in the UR entity.
- The AD has authority to review contracts between the UR physician and the claims administrator or employer for purposes of enforcing these provisions.
- URAC and DWC approval for UR plans. Certain nonprofit, public sector internal UR programs may be exempted from the accreditation requirement.

Utilization Review

- **Reporting UR Data to DWC**
 - Mandatory electronic reporting of UR data by claims administrators to DWC.
- **Electronic Medical Reporting**
 - Labor Code section 6409.1
 - The current Doctor's First Report to be submitted electronically to both the DWC and the employer's claim administrator
 - Combined RFA, PR-2, and PR-4

SB 1175

- Labor Code sections 4603.2 and 4625
- Effective for services on and after 1/1/2017
- Statute of Limitations for provider requests for payment
- 12 months of date of service or 12 months of date discharge for inpatient facility services
- Includes medical-legal exams
- Administrative Director authorized to adopt regulations, including any good cause exception to time limit

Interpreter Regulations

- Labor Code section 5811
- Fixed fee structure except by mutual agreement
- Billing Codes and Detailed Invoices
- Uniform Fee Rates – one for certified, one for provisional
- IBR for medical treatment and medical-legal bills
- Emphasis on certified interpreters over provisionally certified. Rule of 3. Exhaustion of alternative ways to obtain certified interpreters
- Restriction on claims for multiple double billing
- Verification of interpreter credential