

Claims Examiners and Medical Providers Effectively Working Together

William Zachry

Jack the Cement Mixer



Jack the Cement Mixer



System Barriers & Solutions

- ▶ Lack of quality communication between all parties
- ▶ Driving in the dark with your eyes closed is usually not successful
- ▶ Lack of understanding about the other parties' responsibilities
- ▶ Lack of understanding of the administrative complexities of the comp system by doctors
- ▶ An assumption by the examiner's attorneys and WCAB Judges that they know medicine.
- ▶ Anger issues (all parties)
- ▶ Different systems for alternative dispute resolution, litigated and non litigated tracks

Insights into the WC system for Doctors to Consider

- ▶ Incentives drive outcomes
- ▶ Every incentive has an unintended consequence
- ▶ Cost Drivers
 - ▶ Litigation
 - ▶ Return to work
 - ▶ Employer employee relationship
 - ▶ The At-risk employee
 - ▶ Opioids
- ▶ 3% of the claims = 60% of the dollars

What are We Trying to Achieve?

- Prompt determination of compensability
- Prompt and appropriate treatment for injured workers
- Return to work; modified or full duty
- Cost-effective claims management
- Early and appropriate case resolution/closure

Solutions Solutions Solutions to the Problems Problems Problems

- ▶ Communication is the solution
 - ▶ Examiners have little or no medical training and are not equipped to make medical decisions
 - ▶ Some Examiners are provided levels of authority after their medical director and management have determined reasonable acute treatment provisions
 - ▶ Some administrators extend additional authorization for preferred providers
 - ▶ Availability to inquiries and timely responses needs to be a two-way street
 - ▶ Doctors have little understanding of issues facing claims administrators
 - ▶ Caseloads for both are usually high with little time to establish rapport with injured worker
 - ▶ Technical issues, *especially now*, may create further barriers
 - ▶ There has always been a certain lack of trust between employer and injured worker, injured worker and claims administrator, claims administrator and medical providers / injured workers

Operational barriers

- ▶ Delayed reporting of claims by worker or employer
- ▶ Unnecessary delayed decisions on compensability by claims administrator
- ▶ Delayed authorization for medical evaluations tests and treatment
- ▶ Poor understanding of workers' job by examiner and / or treating physician
- ▶ Litigation creating communication barriers

No one likes surprises

- ▶ The ideal goal of great communications between the claims administrator and the medical provider is to make sure that the actions of one never surprises the other.
- ▶ To do this requires planning.
- ▶ To do this requires one to understanding of the job of the other.
- ▶ To do this requires regular quality checks to make sure that the established protocols are working as intended and designed
- ▶ To do this requires that the physician is cognizant of the job duties, of the employees, the availability of modified duty, whether there is a PBN, a MPN and how to access it, if there are other preferred providers – all which will minimize delays and confusion.

Problems and Solutions for Treatment Approval

- ▶ Document, Document, Document
 - ▶ Physicians need to fully document what they are seeing and why the treatment is needed if they want approval for the treatment they are recommending.
- ▶ Reasonable/UnReasonable Requests:
 - ▶ If the patient is seeking treatment that the primary treating physician does not believe will be approved or is appropriate, why is it being requested. This only serves to drive a wedge between the injured worker and the claims administrator.
- ▶ Referrals:
 - ▶ If the plan is for a specialist referral and a MPN list or specialty list is requested, it behooves the claim administrator to request that the primary treating physician advise of the selection and confirm if they or the claims administrator will make the referral in order to avoid delays.

Pre-injury

- ▶ Medical provider
 - ▶ Create relationship with claims administrator (clinic manager or physician) (tour for examiners to provide explanation of services offered)
 - ▶ Set protocols for adding new locations or new insureds.
 - ▶ Set communication process with claims administrators to facilitate disability management/return to work.
 - ▶ Create relationship with employer (visit work site if possible)
 - ▶ Determine if employer wants or needs to have pre-placement physicals, DOT drug testing, Post accident drug testing.
 - ▶ Establish Standard Operating Protocol worksheet for claims administrator and for employer
 - ▶ Determine how translation services will be provided and who will make the call for the need for such services.

At injury

- ▶ Medical provider
 - ▶ Promptly report injury, and disability status of worker to the Claims administrator (insurance company or TPA or Self Administered) (for some claims this will be the initial first report of accident)
 - ▶ With the diagnosis obtain permissions to provide care.
 - ▶ Establish a baseline measurement to include uninjured extremities, from which to measure improvement
 - ▶ Triage claim to determine if hospitalization is necessary.
 - ▶ Determine disability status ; is modified duty and option
 - ▶ Provide medical care in accordance with evidence based medical guidelines
 - ▶ Let claims administrator know about any potential non industrial co-morbidities or claims cost drivers (smoking, obesity, high blood pressure, diabetes, distance between employer and work location, attorney representation, underlying conditions or diseases)
 - ▶ Be sure that reporting includes prior history as reported by the patient or known from prior treatment

Ongoing treatment and disability management

- ▶ Medical provider
 - ▶ Establish a baseline measurement to include uninjured extremities, from which to measure improvement
 - ▶ If possible be very specific about work guidelines (how much work the worker can do not what they can not do.)
 - ▶ What functions of the job is the employee unable to perform.
 - ▶ Establish treatment goals /timeframes to address functional loss.
 - ▶ If goals are not met within established timeframes address impediments and work with the claims examiner to eliminate them.
 - ▶ If planned treatment fails, despite elimination of impediments, re-evaluate the treatment plan.
 - ▶ Reassure employee that return to work will most likely not cause re-injury
 - ▶ Determine if co-morbidities require special handling
 - ▶ Work with the employee on treatment goals
 - ▶ Address impediments to functional goals

After MMI

- ▶ Medical provider
 - ▶ At MMI determination, if patient is being scheduled for MMI evaluation, be sure reporting on the date that MMI is determined includes current work restrictions if any.
 - ▶ *Employers are under time constraints to address these.*
 - ▶ At MMI provide a comprehensive report outlining injury, treatment provided, disability periods and current Whole Person Impairment (with apportionment).
 - ▶ Describe known future medical care needed based on injuries presentation.
 - ▶ It may be possible to predict further changes in the injured body part that may require additional treatment, but those need to be explained.

Medical Legal Evaluations

- ▶ Schedule
- ▶ Ask for needed information from claims and attorneys
- ▶ Call if the cover letter or the records are not timely
- ▶ Let all parties know if there are barriers to report production
- ▶ P&S is problematic
- ▶ Produce a report which responds to all issues (a need for a follow up report or deposition should be considered a failure of the initial report)
- ▶ QA /QC is needed

System Barriers

- ▶ System incentives not aligned to obtain optimal outcomes
- ▶ Poor understanding of medical terminology on the part of examiners attorneys' and WCAB Judges
- ▶ Lack of understanding of legalities of the comp system by doctors
- ▶ Delayed reporting of claims by worker or employer
- ▶ Unnecessary delayed decisions on compensability by claims administrator
- ▶ Delayed authorization for medical evaluations tests and treatment
- ▶ Poor understanding of workers' job by examiner and / or treating physician

It Is Difficult to Legislate

**Goodwill/Good Behavior &
Patient Empathy**

WC Medical Care Axioms

- ▶ Financial incentives drive behaviors
 - ▶ Every financial incentive has an unintended consequence
- ▶ Top WC Medical cost drivers are: litigation, lost time, poor employee employer relations, the at-risk employee, opioids, age, hospitalizations
- ▶ Prompt reporting of claims increases the quality of medical care
- ▶ Accurate diagnosis of injury reduces total claims costs
- ▶ Prompt provision of evidence-based medicine reduces total claims costs
 - ▶ Delays in approving treatment requests increases total claims costs and reduces quality of care
- ▶ Work is really the best medicine and reducing lost time increases the potential that the claim will resolve with significant benefit to the injured worker

Problems Related to Claims Process

- ▶ Focus of examiner is on managing the siloed injury not on the worker as a whole person
- ▶ Focus is not on benefit provision and return to work
- ▶ Focus is on litigation management rather than on litigation avoidance
- ▶ Focus is on achieving apportionment rather than on return to work
- ▶ Employer wants to use WC to eliminate “Problem” worker
- ▶ Employers and claims administrators believe that limiting settlement authority is a cost containment tool rather than a cost multiplier problem
- ▶ Examiners making medical approval / denial decisions without any medical expertise or training
- ▶ Lack of empowerment of examiner to resolve issues

Problems Related to Claims Process

- Requesting reports:
 - Review records first – then only send relevant records
 - Offer to pay medical legal rates for time consuming or complex issues or record reviews
 - Don't hesitate to advocate your position politely or to ask questions but give the physician a chance to explain his or her opinion rationale medically
- Find best communication tool
 - Some physicians uncomfortable with certain tools
 - Email / Fax / Snail mail / Texting / Phone (office or personal cell)

Solutions: WC System-related

- Earn / deserve workers' trust – Be an advocate for the IW
- Early resolution of denied claims and body parts
 - *May legally be able to wait “X” days, but...*
 - **Every day you wait leads to potential movement towards a stuck claim**
- Identify cases getting stuck early and react appropriately
 - *TTD as a risk factor*
- Communication with concerned parties
- Fine tune Preferred Provider List (PPL) to include best doctors

Problems Related to the Doctor

- Medicine as a business not about the patient
- Believing the IW, despite evidence to the contrary
- Inciting the IW by bad-mouthing workers' compensation
- Focus on symptoms, imaging studies – focus not on patient
- Ignoring psychosocial & delayed recovery issues
- Too little focus on **function** – What is preventing return to work?
- Medical care
 - Prescribe treatment not medically indicated per MTUS
 - Sometimes at request of IW, but not medically indicated

Solutions: Medical-related

- Communication between the parties/Talk to the doctor
- Consider services of nurse case manager
- Insist on a time-limited, goal-oriented treatment plan
 - *If expected plan progress is not made, search for obstacles that can be addressed*
 - *Seek PTP's assistance in addressing obstacles*
- Identify best PTPs and develop relationships
- Bypass UR for best practice doctors
- If the carrot doesn't work, consider stick (oust PTP from MPN)