Emerging Trends in Medical Dispute Resolution

Alex Swedlow
California Workers’ Compensation Institute
July 18, 2014
The Form and Function of Medical Dispute Resolution

1. Medical Dispute Resolution: A Primer
2. Public Policy
3. Early Returns from California Reforms
Medical Dispute Resolution: A Primer

The Goal

- Balance medical treatment quality of care and cost

Areas of Conflict

- Cost (unit price)
- Utilization (number of units)
- Interpreting the “Standard of Care”

Tools

- Fee schedules, evidence-based medicine guidelines, budget
- Referee (physicians, vendors, judges, etc.)

The Progression of Dispute Resolution
Medical Dispute Resolution Public Policy — A Brief CA History

California Labor Code, Section 4600
  Provide all treatment “reasonably necessary to cure and relieve from the effects of injury.”

Presumption of Correctness (1994)
  Confers a presumption of correctness to the injured worker’s primary treating physician;

Minniear Decision (1996)
  The injured worker’s primary treating physician’s presumption expands to “all issues” including clinical treatment;

Medical Treatment Utilization Schedule (2003)
  Evidence-based medicine treatment guidelines are presumed correct;

SB 863 (2013)
**Shared Risk:**
Medical Management controls in workers comp and group health

<table>
<thead>
<tr>
<th>Workers’ compensation</th>
<th>Group Health (ACA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Eventually required (save about 2% with penalties for opt-outs)</td>
</tr>
<tr>
<td>Every EE covered from first day of employment</td>
<td>Eligibility requirements and waiting periods</td>
</tr>
<tr>
<td>Premiums covered by ER</td>
<td>Shared premiums</td>
</tr>
<tr>
<td>First dollar coverage, no co-pays/deductibles/contractual limits</td>
<td>Variable array of supply and demand side controls</td>
</tr>
<tr>
<td>Event based</td>
<td>Treatment based</td>
</tr>
<tr>
<td>State level controls</td>
<td>Federal, health plan &amp; state controls</td>
</tr>
<tr>
<td>Benefits and coverage “consistent” for all ERs and EEs</td>
<td>Substantial variation in coverage and benefits across plans</td>
</tr>
</tbody>
</table>
Senate Bill 863

Author: DeLeon
Passed by Assembly & Senate Aug 31, 2012
Signed by Gov Brown Sept 2012

Purpose:
To reduce frictional costs, speed up medical care for injured workers, and to increase Permanent Disability (PD) indemnity benefits to injured workers.
SB 863 built the rationale for creating Independent Medical Review. The Legislature declared:

- The prior system of resolving disputes are costly, time consuming, and inconsistent
- Medical professionals are necessary to implement that policy.
- IMR is a necessary exercise of the Legislature's plenary power to provide for the settlement of disputes
SB 863 – Early Returns
Independent Medical Review Applications

Source: DWC
SB 863 – Early Returns
Independent Medical Review

CWCI January 2014

• Building the database
• Measuring IMR outcomes
• Integration with ICIS UR data
Estimating the Level of UR

The Proportion of Med Mgt to Med Treatment

- Med Mgt & Med Legal: $437M (8.2%)
- Medical Tx: $4.8B (91.8%)

Source: WCIRB 2013

The Proportion of Util Review within Med Mgt

- Util Rvw: 49.6%
- Bill Review & PPO: 50.4%

Source: CWCI 2013
### Elevated Utilization Review

<table>
<thead>
<tr>
<th>Top Ten UR Events</th>
<th>UR Events</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All Events</td>
</tr>
<tr>
<td>Pharmacy</td>
<td>43%</td>
</tr>
<tr>
<td>Diagnostic Testing</td>
<td>12%</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td>9%</td>
</tr>
<tr>
<td>Durable Med Equip</td>
<td>8%</td>
</tr>
<tr>
<td>Consultation</td>
<td>8%</td>
</tr>
<tr>
<td>Medical Treatment – Other</td>
<td>5%</td>
</tr>
<tr>
<td>Injections</td>
<td>4%</td>
</tr>
<tr>
<td>Surgery</td>
<td>3%</td>
</tr>
<tr>
<td>Chiropractic Manipulation</td>
<td>3%</td>
</tr>
<tr>
<td>Acupuncture</td>
<td>1%</td>
</tr>
<tr>
<td><strong>Sub-Total</strong></td>
<td><strong>96%</strong></td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Source: CWCI 2014
The Relationship Between Treatment Requests and UR

Medical Tx Requests

- Approve 75%
- Elevate to UR 25%

Elevated UR Decisions

- Approve 76.6%
- Denied/Modified 23.4%

Source: CWCI 2014

Post Elevated UR:

$25\% \times 23.4\% = 5.9\%$ of Tx Requests Denied/Modified
# Independent Medical Review

<table>
<thead>
<tr>
<th>IMR Decisions</th>
<th>IMR Events</th>
<th>All Events</th>
<th>UR Upheld</th>
<th>UR Overturned/Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmacy</td>
<td></td>
<td>35%</td>
<td>78%</td>
<td>22%</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td></td>
<td>13%</td>
<td>85%</td>
<td>15%</td>
</tr>
<tr>
<td>Durable Med Equip</td>
<td></td>
<td>10%</td>
<td>87%</td>
<td>13%</td>
</tr>
<tr>
<td>Surgery</td>
<td></td>
<td>8%</td>
<td>79%</td>
<td>21%</td>
</tr>
<tr>
<td>Major Imaging</td>
<td></td>
<td>8%</td>
<td>78%</td>
<td>22%</td>
</tr>
<tr>
<td>Injection</td>
<td></td>
<td>6%</td>
<td>80%</td>
<td>20%</td>
</tr>
<tr>
<td>Acupuncture / Chiropractic</td>
<td></td>
<td>5%</td>
<td>80%</td>
<td>20%</td>
</tr>
<tr>
<td>Tests &amp; Measurement</td>
<td></td>
<td>5%</td>
<td>65%</td>
<td>35%</td>
</tr>
<tr>
<td>Lab</td>
<td></td>
<td>3%</td>
<td>66%</td>
<td>34%</td>
</tr>
<tr>
<td>Consult</td>
<td></td>
<td>2%</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Psych</td>
<td></td>
<td>2%</td>
<td>86%</td>
<td>14%</td>
</tr>
<tr>
<td>Pain Management</td>
<td></td>
<td>2%</td>
<td>74%</td>
<td>26%</td>
</tr>
<tr>
<td>Minor Imaging</td>
<td></td>
<td>1%</td>
<td>86%</td>
<td>14%</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td>3%</td>
<td>76%</td>
<td>24%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
<td><strong>79%</strong></td>
<td><strong>21%</strong></td>
<td></td>
</tr>
</tbody>
</table>
The Relationship Between UR and IMR

Elevated UR Decisions

- Approve: 76.6%
- Denied/Modified: 23.4%

IMR Decisions

- Upheld UR: 78.9%
- Overturn UR: 21.1%

Source: CWCI 2014
Medical Dispute Resolution:
Deconstructing Medical Treatment Requests, UR and IMR Decisions

- Med Tx Approved w/o Elevated UR: 75%
- Approved by Elevated UR: 18.1%
- Denied/Mod by Elevated UR (IMR Eligible): 5.9%
- Range for IMR Overturn Up to: 1.2%

Source: CWCI 2014
Setting and administering the “Standard of Care:"

- Guidelines, limits and other controls;
- Access to care;
- Regional differences;
- Balancing medical innovation, quality and cost.
Balancing Medical Dispute Resolution

Lessons from Other States

Medical Management and “ROI”
Washington State: The Impact of Removing UR

Spinal MRIs


0 2,000 4,000 6,000

Lower Extremities MRIs


0 2,000 4,000 6,000

Source: Glass 2010
Preliminary Results
Pharmaceutical Utilization & Cost

Schedule-II & III Opioids

2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013
---|---|---|---|---|---|---|---|---
Percent of Scripts | 20.1% | 20.5% | 22.8% | 25.3% | 25.8% | 26.3% | 27.2% | 25.7% | 24.9%
Percent of Pymnts | 14.6% | 14.1% | 21.0% | 27.0% | 29.3% | 30.8% | 31.4% | 29.3% | 26.9%

1 Calculations are on a calendar year basis

Chronic Pain Mgt Guidelines

84%

24%
The Missing Piece In Rx Control: UR & Formularies

CWCI Forthcoming Study: The potential impact of a State Formulary

1. Texas
2. Washington

Preliminary results on modeling 1M prescriptions (2012-13 fill dates) against list of NDC codes within Texas and Washington State Workers’ Compensation Formulary:

- Pcnt of “N” Prescriptions and Payments
- Match: NDC code within Tx and WA formulary
- No Match: NDC code outside Tx and WA formulary
## Preliminary Outcomes

### The Missing Piece In Rx Control: UR & Formularies

California 2012-13 Prescriptions & Payments Outside Texas WC Formulary

#### Percentage of All “N” Drugs

<table>
<thead>
<tr>
<th></th>
<th>Scripts</th>
<th>AmtPd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas</td>
<td>16.6%</td>
<td>26.7%</td>
</tr>
<tr>
<td>Washington</td>
<td>39.8%</td>
<td>69.4%</td>
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</tbody>
</table>
Preliminary Outcomes

The Missing Piece In Rx Control: UR & Formularies

Potential Formulary Savings

<table>
<thead>
<tr>
<th></th>
<th>&quot;N&quot; Drugs</th>
<th>All Drugs</th>
</tr>
</thead>
<tbody>
<tr>
<td>10th Pcntile</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25th Pcntile</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Median (50th Pcntile)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>75th Pcntile</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90th Pcntile</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Preliminary Outcomes

The Missing Piece In Rx Control: UR & Formularies

Potential Savings from Texas Formulary

<table>
<thead>
<tr>
<th></th>
<th>&quot;N&quot; Drugs</th>
<th>All Drugs</th>
</tr>
</thead>
<tbody>
<tr>
<td>10th Pcntile</td>
<td>79.2%</td>
<td>21.4%</td>
</tr>
<tr>
<td>25th Pcntile</td>
<td>74.3%</td>
<td>20.1%</td>
</tr>
<tr>
<td>Median (50th Pcntile)</td>
<td>59.8%</td>
<td>16.2%</td>
</tr>
<tr>
<td>75th Pcntile</td>
<td>36.0%</td>
<td>9.7%</td>
</tr>
<tr>
<td>90th Pcntile</td>
<td>-12.1%</td>
<td>-3.3%</td>
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</table>

Median estimated system-wide savings: $100M
### Preliminary Outcomes

#### The Missing Piece In Rx Control: UR & Formularies

**Potential Savings from Washington State Formulary**

<table>
<thead>
<tr>
<th></th>
<th>&quot;N&quot; Drugs</th>
<th>All Drugs</th>
</tr>
</thead>
<tbody>
<tr>
<td>10th Pcntile</td>
<td>76.8%</td>
<td>53.2%</td>
</tr>
<tr>
<td>25th Pcntile</td>
<td>72.4%</td>
<td>50.2%</td>
</tr>
<tr>
<td>Median (50th Pcntile)</td>
<td>67.3%</td>
<td>46.6%</td>
</tr>
<tr>
<td>75th Pcntile</td>
<td>53.9%</td>
<td>37.4%</td>
</tr>
<tr>
<td>90th Pcntile</td>
<td>38.0%</td>
<td>26.3%</td>
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</table>

Median estimated system-wide savings: $420M
Emerging Trends in Medical Dispute Resolution

Alex Swedlow
California Workers’ Compensation Institute
July 18, 2014
California Workers’ Compensation: Trends

CCWC

12th Annual Conference

July 18, 2014

Mark Priven, FCAS, MAAA
Director Regulatory & Alternative Risk Consulting
Bickmore
California Workers’ Comp. Trends

• Pricing
  • Rate adequacy vs. losses

• Claims
  • Frequency
  • IMR
  • Liens
  • Other SB 863
California Workers’ Comp. Earned Premium

$Billions

- 5.0  10.0  15.0

2010 2011 2012 2013

9.3  10.3  11.7  13.7

11% 13% 17%

Derived from WCIRB Annual Insurer Experience Report 12/31/13
California Workers’ Comp. Change in Earned Prem. and Losses

Derived from WCIRB Annual Insurer Experience Report 12/31/13
CA Workers’ Compensation

% Change Indemnity Claim Frequency

Accident Year

WCIRB Annual Workers’ Compensation Conference 2014
2012 based on unit stat plan.
2013, 2014 based on claim counts & statewide employment estimates
CA vs. NCCI Workers’ Compensation
% Change Indemnity Claim Frequency

WCIRB Annual Workers’ Compensation Conference 2014
NCCI estimates are based on the May 8, 2014 State of the Line Presentation (NCCI 2013 estimate is preliminary and the 2010 and 2011 estimates have been adjusted to remove the impact of audit premium and other factors).
CA Workers’ Comp by Region
Indemnity Claim Frequency Index
## CA Workers’ Compensation by Region
### % Change Indemnity Claim Frequency

<table>
<thead>
<tr>
<th>Year</th>
<th>Bay Area</th>
<th>Other Regions</th>
<th>Los Angeles</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>-14.2</td>
<td>-20.0</td>
<td>-16.0</td>
</tr>
<tr>
<td>2006</td>
<td>-12.8</td>
<td>-15.0</td>
<td>-10.0</td>
</tr>
<tr>
<td>2007</td>
<td>-5.9</td>
<td>-10.0</td>
<td>-5.5</td>
</tr>
<tr>
<td>2008</td>
<td>-4.9</td>
<td>-5.0</td>
<td>-4.3</td>
</tr>
<tr>
<td>2009</td>
<td>-4.3</td>
<td>-2.9</td>
<td>-2.9</td>
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<tr>
<td>2010</td>
<td>4.0</td>
<td>6.4</td>
<td>8.3</td>
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<tr>
<td>2011</td>
<td>-3.4</td>
<td>-0.5</td>
<td>-2.2</td>
</tr>
<tr>
<td>2012</td>
<td>-4.0</td>
<td>0.1</td>
<td>7.8</td>
</tr>
</tbody>
</table>

**Accident Year**

- **Bay Area**
- **Other Regions**
- **Los Angeles**

WCIRB Annual Workers’ Compensation Conference 2014
CA Workers’ Comp by Region
Indemnity Claim Frequency Index

WCIRB Annual Workers’ Compensation Conference 2014
California Reform

# of IMR Requests

WCIRB Annual Workers’ Compensation Conference 2014
California Reform
Initial Projected IMR Costs

- Medical, 49.6%
- Indemnity, 30.1%
- Claims Handling, 6.5%
- Other ALAE, 13.6%
- IMR, 0.2%
California Workers’ Comp. Trends
California Reform

# of Liens Filed

Thousands

<table>
<thead>
<tr>
<th>Year</th>
<th>Liens Filed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>464</td>
</tr>
<tr>
<td>2012</td>
<td>1,179</td>
</tr>
<tr>
<td>2013</td>
<td>186</td>
</tr>
</tbody>
</table>

WCIRB Annual Workers’ Compensation Conference 2014
California Workers’ Comp. Other SB 863

- Ambulatory Surgical Centers
- Spinal Surgical Implant Hardware
California Workers’ Comp. Trends

• Pricing
  • Rate adequacy vs. losses

• Claims
  • Frequency
  • IMR
  • Liens
  • Other SB 863
Getting Past the Silos
Can Workers’ comp Stand Alone?

Thomas Parry, Ph.D.
President
Integrated Benefits Institute
A New Employer Setting

• Transition from compliance in responding to healthcare reform to strategies and related tactics for managing health and business-relevant outcomes

• Show the C-suite the value of improved workforce health

• Dead end: attempting to control claims costs in separate program silos

• Looking for best strategies to improve workforce health, reduce lost time, enhance productivity and impact business

• Limited data, time and dollars
Getting Past the Silos
Do Benefits Programs Work Like This?

Workforce

GH

STD/L

TD

WC
Or Like This?

Workforce

GH  STD/ LTD  WC
Group Health <-> Workers’ Comp
Health Risks and Workers’ Comp Costs

GH Impact of $0 Workers’ Comp Claims


Odds ratio

<table>
<thead>
<tr>
<th></th>
<th>Outpatient</th>
<th>Inpatient</th>
</tr>
</thead>
<tbody>
<tr>
<td>Odds ratio</td>
<td>1.494</td>
<td>2.004</td>
</tr>
</tbody>
</table>

2.5
2
1.5
1
0.5
0
Obesity and Workers’ Comp

• Descriptive differences
  › Morbidly obese EEs are twice as likely to file a WC claim than EEs at recommended weight
  › WC costs are 7 times greater for morbidly obese EEs compared to EEs at recommended weight
  › WC lost days are 13 times greater for morbidly obese EEs compared to EEs at recommended weight

• Statistically-controlled differences
  › after controlling for age, gender, race, smoking status, employment duration and occupation, claims costs and lost time differences persist
  › Obesity classes I-III particularly at risk for WC claims

Disability ← Workers’ Comp
WC & STD Disability Duration

STD
- Mean lost days: 49
- Median lost days: 30

WC
- Mean lost days: 123
- Median lost days: 30
WC & STD Low-Back Claims
(26 Weeks Maximum Duration)

STD
- Mean lost days: 37
- Median lost days: 29

WC
- Mean lost days: 30
- Median lost days: 16
A Broader Context
Chance of work injury by work context factors

- Work life balance
- Work safety climate
- Work Load
- Average chance of injury (8%)

IBI Quick Study. Integrated Benefits Institute. Nov. 2010
Where Does This Leave Us?
What’s at Risk for Employers?
The True Costs of Health

• 10,000 life manufacturing company
• 70% male
• 25% of employees 55 years or older
• 62% skilled/semi-skilled laborers
Health Costs – The “Traditional” View

Total = $24.1 MM

$ Millions

$20

$15

$10

$5

$0

Medical (EE)  Medical (family)
Health Costs – The “Integrated” View

Total = $28.8 MM

- Medical (EE) = $15.0 MM
- Medical (family) = $10.0 MM

[Graph showing the breakdown of medical costs into different categories.]
Health Costs – Adding Absence

Total = $38.8 MM
Health Costs – Adding Lost Productivity

- Medical
- Pharmacy
- Absence LP
- Performance LP
- Wage replacements

Total = $58MM

$20
$15
$10
$5
$0

$ Millions

Medical (EE)
Medical (family)
Time-loss pay
Lost productivity

IBI
Full Cost Components

- Medical: 48%
- Wage replacements: 28%
- Absence LP: 16%
- Performance LP: 8%
What Employers Need to Figure Out

- Is it about healthcare costs or something more?
- What’s the best strategy for coverage and financing?
- What will data mean to employer decisions and how will they get it?
- Can vendors get out of their silos as fast as employers need them to?
Contact Information

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415-222-7282