

Medical Advisory Committee

9/15/2020

Web-ex

Members:

Rob Behnke, CPCU, Cracker Barrel
Misty D. Williams, RN, BSN, CCM, AIC
David Tutor, MD, Occupational Medicine, Knoxville
James B. Talmage, MD, BWC Assistant Medical Director
Lisa Bellner, MD, PM&R, Pain Management, Knoxville
John Brophy, M.D., Neurosurgery, Memphis
Cerisia Cummings, M.D. Bridgestone
Keith Graves, D.C., Nashville
Lisa Hartman, RN, AFL-CIO

Staff:

Abbie Hudgens, BWC Administrator
Robert, B. Snyder, MD, BWC
Suzy Douglas, RN
Troy Haley, BWC
Mark Finks, BWC
Kyle Jones, BWC
Suzanne Gaines, BWC

Guests:

David Price, Preferred Medical
Faith Parrish, VUMC
Tracy Wall, Eckman Freeman
Treva Overstreet, Enablecomp
John Kevin Jones, Hankook Tire
Yarnell Beatty, TMA
Alex O'Neal
Jonathan May, Attorney, Memphis
Judy Bobbitt, TOA
Roy Johnson, MD, Occupational Medicine, Lebanon
Ken Eichler, Corvel
Susan Stewart
(10 additional telephone attendees that did not identify themselves)

Call to Order

Dr. Tutor called meeting to order at 1:06 PM.

Quorum

Established (10 Of 16, 8 needed).

Minutes of May 19, 2020:

Last meeting minutes were corrected by Lisa Hartman and Dr. Talmage and approved as amended.

Conflict of Interest Forms:

With the new fiscal year, there was a request for Conflict of Interest forms, signed on both pages, to be sent to Suzy Douglas.

Old Business:

ODG updates:

Dr. Snyder explained updates of May, June and July to the committee. Most of the changes are about language; there are very few actual changes. Dr. Brophy noted that the log-in did not work. Dr. Snyder apologized and will send the new one to the committee.

These changes were highlighted for May, June, and July 2020.

5/21/2020, Pain, Telehealth. The update entry is “Recommended for specific musculoskeletal conditions”; Update criteria: “considered as an option for musculoskeletal injury care.”

Dr. Bellner asked for clarification of Telehealth for pain during the COVID crisis. Will it be long term after this period has passed? No one is sure of answer to that question.

5/21/2020; Neck; Epidural steroid Injections (ESIs); Update criteria: “cervical epidural steroid injections (ESIs); Update criteria: “cervical epidural steroid injections (ESIs)may be supported on a case-by-case basis”; Radiculopathy (irritation

or injury supported on a nerve root that typically causes pain and/or numbness or weakness in the part of the body supplied with the nerves from that root) must be well documented”; and “All patients should be informed of the extreme risk of undergoing this treatment in cervical region and lack of quality evidence of sustained benefit” Update “i.e.” and “e.g.”

The Epidural Steroid Injections (ESIs) will include more substantial warnings of risks to that procedure.

June updates:

6/5/2020; Pain; spinal cord Stimulators for use other than FBSS or CRPS; Update entry, updated recommendation statement.

6/5/2020; Pain; Platelet-rich plasma (PRP); Major update, add different body part recommendations.

6/5/2020; Infectious; Return to work; Update entry; Add ref “Viral pandemic management (COVID-19)”; add new ICD code information.

6/5/2020; Infectious; Viral pandemic management (COVID-19); Major update, update criteria with new CDC recommendations.

6/19/2020; Pain; Prescription Drug Monitoring Programs (PDMPs); New entry Recommended to access.

6/19/2020; Pain; Opioid for chronic pain: Update entry, update criteria

6/19/2020; Pain; Opioids, treatment approach to misuse, abuse, and substance use disorder/addiction: New entry, Recommend that if a patient exhibits...

6/19/2020; Pain, Opioids, dealing with evidence of misuse and abuse: New entry, Recommend that if a patient...

July Updates:

7/17/2020; Pain; Opioids, dosing: Updated limit from 100 mg to “90 mg” in the “Overall recommendations”

Dr. Bellner suggested that this is not correct; it cannot use milligrams but MME.

7/17/2020; Mental; Opioid antagonists (especially naltrexone) for alcohol dependence. Topic title change from Opioid antagonists (especially naltrexone) for alcohol dependence”; Update entry: Recommended

7/17/2020; Head; Anosmia treatment; Topic title change from “Anosmia treatment” to “Anosmia”; Update entry: Definition

Dr. Tutor called for motion to accept ODG updates with proviso for the ability of committee to revisit any of these sections at the next meeting. Misty Williams made motion to accept. Dr. Talmage seconded. Motion carried, no dissent.

TeleHealth Report:

Mark Finks reported that the draft rules will be finalized. Step include a Public Hearing, the Secretary of State’s office and the Attorney General’s office. The entire process of rule-making may take 8-10 months.

Legislative Update:

Troy Haley reported that the legislature came back on June 10; the Senate only addressed emergency COVID legislation. Telehealth, COVID liability, and monuments legislation did not get completed.

In a second emergency session in August, a COVID liability bill passed. There was discussion in the Senate of applicability to worker’s compensation of the Telehealth bill. Title 50, Chapter 6 was not opened in this bill that also passed, although some provisions have a sunset. The third bill passed in the August session concerned penalties for protesters.

In the June session, the Worker’s Compensation Advisory Council sunset was extended until 6-30-2021. Other issues and updates to WC were noted. Out-of-state construction workers working in the state must have worker’s comp coverage from the first day. Success-of-interest was included in penalty assessments. Changes were made to some court procedures, benefits and panels.

Recent WC COVID data:

Dr. Snyder informed committee that claims were 15% below the number filed last year. COVID-19 claims represent 6%. For September, 133 claims were filed for COVID illness and 44 were denied.

Cumulatively, there have been 2616 COVID claims filed and 1201 denied.

So far, no disputes have completed mediation, a mandated step prior to a court hearing. It is not known what the final status of the claims that have not been denied will be. They could be accepted or still being investigated.

Ms. Hartman pointed out that labor supports coverage. It was noted that Tennessee has not passed a presumption that COVID was contracted through work. Some states have passed legislation or issued executive orders, Kentucky and California being noted. Washington State, being the payer for work comp claims, has covered both the treatment and the quarantine time.

OSHA has given instructions on how employers should investigate whether COVID was contracted within the facility. Ms. Williams pointed out that insurance companies thoroughly investigate claims before payments are issued or claims denied.

Access to Care:

Dr. Snyder pointed to the last meeting's minutes as to what was discuss. The Bureau continues to refine its suggestions.

UR Penalty Report:

Cases sent to penalty since the last meeting:

- 1) Delays in adjuster response from February to June before questioning causation.
- 2) Physician reviewer was not licensed in Tennessee.
- 3) ODG guidelines were not properly applied.
- 4) Used the wrong part of ODG guidelines for the diagnosis.
- 5) Reviewer was not licensed in Tennessee.
- 6) Incomplete information from adjuster, did not list their own attorney.
- 7) The insurer had not paid for medication two months after a denial was overturned.
- 8) Reviewer was not licensed in Tennessee. The response to this letter was reviewed by the UR Working Group.

UR Working Group:

The UR committee working group met on September 11 and reviewed a three-page letter from an attorney regarding UR programs; refer to violation 8 above.

Dr. Snyder summarized the committee discussion and issues to be considered by the Working Group and the Bureau.

There is a *disconnect between the duties of an adjuster and the duties of the UR organization*. The URO is responsible for reviewing treatments and notifying the parties. This information does not necessarily get back to the adjuster before

notifications are sent by the URO. This confuses the providers who even with a favorable UR determination must seek a second authorization for payment. If the adjuster were responsible for reporting the UR determination to the patient, physician and all parties, this would reduce confusion and improve efficiency and limit miscommunication or the need to rescind UR denials.

A *treatment request cover sheet* is being considered that would improve communication and clarity. Based on the Georgia form, revisions for Tennessee were suggested.

As the Bureau already has the authority to request an *annual report*, the Working Group reviewed the initially proposed criteria for *audit* of UR organizations.

The *peer-to-peer process* for Tennessee had been a problem for years. Currently, there are no specific policies for the Bureau. Missed phone calls, short timelines, in-complete data and questions of facts have all been well documented. For solutions, the Working Group was presented with Kentucky's solution, setting up timelines and communications processes starting with their drug formulary. Creating a written and retrievable record of the interaction should be possible using modern technology such as a portal system or email system between the physicians with stipulated time frames. Decisions are not final as algorithms and processes will need to be outlined before rules are developed. URAC already has policies for peer to peer review. In a response to a question from Ms. Williams, Dr. Snyder noted that the intent was not to change any of the present requirements, but in some way to create a written record ("paper trail") instead of relying on oral communication.

New Business

None.

Announcements

The annual conference is October 26 through 30, 2020 and will be a virtual conference.

There will be morning and afternoon sessions. An update on COVID, rollout of the **REWARD** program and others. There will be ethics credits for attorneys as well as Case Managers. Look on the Website.

Dr. Bellner questioned billing for the code 99354, a case manager discussion code, with a **-52** modifier. Dr. Snyder asked that Suzy and he review this and get back to her.

Final call for Conflict of Interest forms from members.

Next Meeting

The next meeting will be virtual on Tuesday, December 1, 2020 at 1:00 PM Central Time.

Adjournment

The meeting adjourned at 2:08 PM.