

# Medical Advisory Committee

September 20, 2022

Via Teams

Tennessee Room  
220 French Landing Drive  
Nashville, TN 37243

The meeting was held in the Tennessee Room with telephone and virtual options available. All attended via TEAMS. The use of the virtual platform is a benefit to the public, allowing participation of out-of-state stakeholders and others interested in the subjects of this meeting. It is necessary for establishment of a quorum that the members have the virtual option available. The committee rules provide for the members to be counted as present for the determination of a quorum (see rule **0800-02-23-.04 (2-3)**).

## Members:

Rob Behnke, Cracker Barrel  
Lisa Hartman, R.N.  
Misty Williams, R.N.  
Lisa Bellner, M.D.  
Cerisia Cummings, D.O.  
David Tutor, M.D.  
Richard L. Cole, D.C., DACNB, DAAPM, FICCN, FICC(H)  
James Gregory Kyser, M.D.  
Dan Headrick, PT, CEAS III, ASTYM, BS  
John Brophy, M.D.  
Amy Moses, McKee Foods Corporation  
Jeff Hazlewood, M.D.

## Guests:

David Nelson  
Tiffany Grzybowski, HealtheSystems  
Faith Parrish, Vanderbilt  
Jennie Verner Marshall, Butler Snow Law Firm  
Susan Stewart, Coventry  
Mandy Young, Butler Snow Law Firm  
Terry Horn, Vanderbilt  
Larry Brinton, Accuro Solutions  
David Price, Preferred Medical  
Roy Johnson, MTOEM

## Staff:

Troy Haley, Administrator, BWC  
Robert Snyder, MD, Medical Director BWC  
James Talmage, MD, Asst. Medical Director BWC  
Suzy Douglas, BWC  
Mark Finks, BWC  
Amanda Terry, BWC  
Suzanne Gaines, BWC  
Matthew Bodkins, BWC  
Kyle Jones, BWC  
Jay Blaisdell, BWC

**Via telephone:**

Roy Johnson, MTOEM  
 Alex O'Neill, Arbitech  
 John Brophy, M.D.

**Call to Order**

Dr. Tutor called the meeting to order at 1:02.

Dr. Snyder introduced the new administrator, Troy Haley. Amanda Terry was introduced as the new Legislative Liaison and Director of the Penalty Program. Introductions of other committee members, staff and guests followed, including the newest member of the committee, Amy Moses of McKee Foods.

**Quorum**

A quorum was confirmed as present: 13 of 16 members present (1/3 of the members needed for quorum).

**Approval of Minutes**

Dr. Cole motioned to accept the minutes of the 5-10-2022 meeting and Dr. Kyser seconded. The minutes of the 5-10-2022 meeting was approved as written with no dissent.

**Conflict of Interest**

Dr. Tutor reminded members that Conflict-of-Interest forms for the new fiscal year need to be completed and sent to Suzy Douglas.

**Old Business****ODG Update**

ODG updates of 7/29 were presented by Dr. Snyder. There were recommended statement updates for spinal cord stimulators, dorsal root ganglion stimulation. Some of the others were interspinous space devices for spinal stenosis, as well as rotator cuff patching and changes to impingement syndrome surgery. All of them had recommendation statement updates. There were criteria updates and evidence summary updates. Dr. Snyder called for any questions or comments. There were none, so Dr. Snyder called for a motion to accept.

Ms. Williams motioned to accept the changes; Dr. Hazlewood seconded. The committee voted to accept the updates with no dissent.

Dr. Snyder also informed the committee about the TENEX procedure, which is a type of percutaneous tenotomy that's done for tennis elbow (lateral epicondylitis). It was denied by one of the reviewers and

was not supported by ODG. Dr. Talmage had three new references for that procedure from the time that the review had been done, and ODG has accepted those. They are in the process of revising their recommendation on that procedure based upon the new medical evidence that we support and sent to them.

ODG continues to be quite receptive and amenable to suggestions from the MAC committee.

### **AMA Guides® Update**

Dr. Talmage reported on the current status of digital editions. The AMA will no longer print books. The 2008 book used in Tennessee, 6<sup>th</sup> edition from the AMA, cannot be purchased. Amazon and Barnes and Noble are sold out. There might be a few online vendors from whom a copy can be obtained, but the hard-bound textbooks are becoming increasingly difficult to find.

The committee will continue to defer the vote from the 5/10 meeting and until the release of the 2023 spine and neurology chapter updates. Dr. Snyder said that action could be taken at the first of the year when the effective changes are substantive. Dr. Talmage summarized the changes for the chapters involved.

### **Medical Fee Schedule and Medicare updates:**

Change to the physician and PMR physician payment were discussed. The new fee schedule updates have been posted on the Secretary of State website. There are changes to Chapter 17 which is the general rules, and changes to Chapter 18 which the specific payment and Chapter 19 the inpatient rules.

The Bureau has partnered with FAIR Health to provide rate tables—instead of each provider or insurance company having to calculate Tennessee rates, they will be published free to the providers and insurance companies by FAIR Health. The timing depends upon the dates when the rules become effective.

The public hearing for the medical fee schedule changes will be November 8<sup>th</sup> at 1:00PM.

Suggestions will for the Medical Fee Schedule changes will be accepted from now until two weeks after the public hearing.

Other changes have been made using current terminology for anesthesia services. There will be an added modifier that will allow the occupational medicine, pulmonary or PM&R physicians to use on their bills to identify them.

There has been a recommended additional reimbursement to other subspecialty physicians to increase the attractiveness and access that include pulmonology, psychiatry, cardiology, neurology, and clinical psychologists.

CPT® codes that were special to Tennessee have been changed to Tennessee specific Z codes; especially for missed appointments.

Certain laboratory procedures payments have been reduced in line with national and regional values.

The inpatient fee schedule is limited to the removing the necessity of applying the “inpatient only” list from Medicare to payment for inpatient services. It will impact a very small number of services, but there have been no actual changes in the calculation for the inpatient reimbursements.

NCCI reports that the changes made will have a negligible impact on the cost to the employers.

The modifiers and Z codes will have prices as part of the rate table.

For the individuals that work outside of Tennessee, the rates tables are similar to those of Kentucky and Georgia. However, Tennessee will not charge the stakeholders in Tennessee for those services.

Rules changes is a lengthy process. The final version of the rules generally has an effective date 90 days after notices have been filed with the Secretary of State, subject to the approval of the government operations committee during that time.

Medicare preliminary announcement of reduced conversion factor by 4.5% going into 2023: \$34.61 to \$33.08. This preliminary finding is subject to revision in November. Then it is subject to retroactive changes by Congress that usually occur in March or April.

Medicare announced further flexibility in Telehealth services going through October 13. Changes to shared savings programs and integration of behavioral health services have been updated. These changes have been addressed by Medicare in their announcement that came out in July.

### **Rules and Legislative Update:**

Mr. Haley reported that there were not any legislative updates this time of year.

Ms. Terry will be the Bureau Legislative Liaison. Next week she will be in Governor’s legislative retreat, at the end of September.

Rulemaking—UR rules will go before Government Operations Committee on Tuesday, September 27, 2022. They will go into effect Thursday, September 29, 2022.

The administration bill was turned in June and awaiting any final revisions. That will be filed sometime in January.

### **UR Update and Report:**

Dr. Snyder presented the UR report. Five cases were sent to the penalty unit since the last meeting for the following reasons:

- Two for delays in receiving records requested.
- No listing of documents reviewed.
- Wrong diagnosis.
- 2 were for delays in the adjuster sending the requested treatment to the utilization organization.

These cases were sent to penalty for notification and warning.

UR Appeals has seen 2 cases where the UR physician denied treatment with no records and no request for records. The presumption is that the physician's request is appropriate and medically reasonable, as per legislation 50-6-204(a)(3h).

A failure to look at any records will be sent to penalty. Dr. Snyder emphasized that the goal is to make sure that the individual gets the appropriate treatment based upon the recommendations of the treating physician unless there are substantive reasons to deny it.

## New Business

### **REWARD Program:**

Suzy Douglas reported that Administrator Haley sent out some appointment letters for the new REWARD Advisory Committee on or around 9/15<sup>th</sup>. This committee will replace the task force that has advised the Bureau about the Reward Program. It will be a more structured advisory committee. Generally, anyone who was on the task force was asked to join but there will be some new employer representation. The third-party administrator is also on the committee. Primarily the advisory committee will help the Bureau with the employer recognition aspect of the program. They are looking at the honor roll and good advice from the committee in completing the honor roll development and how to do employer recognition and get more employers involved in the support network.

Dr. Snyder added that at the next Medical Advisory Committee, there will be a formal presentation of both the Reward and Certified Physician Programs that will include some slides and some other information. The next meeting will also have an outline or summary with slides of all of the Bureau programs and make everyone aware of compliance programs, ombudsman, and court processes.

The Certified Physicians Program is now "live". The website has the requirements and application. Three physicians have already completed the training. Two of them are Dr. Hazlewood and Dr. Johnson.

Dr. Snyder commended Jay Blaisdell, Samantha Collier, and Kyle Jones as the backbone of the program.

### **COVID updates:**

Dr. Snyder presented statistics: as of 8/31/2022, there were 14045 total first reports of injury that were coded for Covid. There were also additional first reports regarding vaccine or inoculation (total, 14545).

Of these, 8,564 were initial denials and of those, initial payment and reinstatement occurred in 1,632. This does not include the numbers where employers allowed for paid time off for the employee's illness.

There were 51 fatalities whose first report of injury was COVID. Thirty-six of the 51 were denied. Twelve have been accepted, and one is in process.

There is no update that any of the disputes have come before the Court of Worker's Comp; the mediators have resolved a number of disputes. There are no actual court cases of disputed claims.

The numbers of COVID cases are slowing down. The first reports of injury have been significantly reduced.

Ms. Hartman asked if there was trend as to why those people were denied. Dr. Snyder replied no; the numbers were pretty stable since the first few months.

The information from NCCI indicates that most of the costs of the COVID claims were relatively low, averaging \$2000.00 to \$3000.00 per claim for medical treatment.

In 2021, there were 4 claims nationally that were high dollar amounts, but they involved emergency care and intensive care for long periods of time. There were very few of those type of claims in workers' comp.

### **Next Meeting:**

**Next Meeting:** December 13, 2022

**Second Meeting:** March 7, 2023

### **Adjournment:**

Meeting adjourned 1:46 PM.