

Medical Advisory Committee

Meeting Minutes
January 8, 2010

Opening:

Dr. Keenen called to order at 9 am on January 8, 2010 a meeting of the Medical Advisory Committee and the Workers' Compensation Division at Clackamas Community College.

Present:

Ronald Bowman, MD (Chair); Timothy Keenen, MD (Vice-Chair); John Braddock, MD; Franklin Wong, MD; Hans Carlson, MD; Frank Prideaux, DC; Brad Lorber, MD; Constantine Gean, MD; Joey Blubaugh (Employer Representative); Kevin Willingham (WCD); Jacqueline Sewart (WCD); Juerg Kunz (WCD).

Absent: Maria Carraher (Worker Representative); Tom Williams, PT; Gary Rischitelli, MD.

A. Approval of Minutes – Medical Advisory Committee

The committee unanimously approved the November 20, 2009 meeting minutes as distributed.

B. OAR 436-009-0015(6) (C) – electromyography

The division explained to the committee that the language in OAR 436-009-0015(6) (C), Limitations on Medical Billings, currently reads: "Surface EMG (electromyography) tests." The division asked the committee if "electromyography" is a typographical error and should read "electromyography." The committee confirmed that the language in the rule should be changed to read, "electromyography."

C. Lumbar Matrix Scan – Juerg Kunz

The committee and the division discussed new lumbar matrix scan technology, a form of surface EMG that apparently collects bioelectrical signals from the back and reconstructs them into interpreted images allowing the physician to see the physiology with a lower back injury.

Knowing the division declared similar equipment non-compensable in the past, the committee agreed this technology should be reconsidered to see if it's now of benefit to the worker and the provider. The committee said they are seeing more car accident victims being given surface EMGs.

The committee recommended that the division work with a sub-committee to compile a list of new technology and techniques that might be reviewed by the committee yearly to see if they're compensable, or not.

To begin the review process, the committee asked the division to compile a list of technology that has been stated non-compensable in the past and new technology that the division is aware of that should be considered. The committee asked the division to bring the list to the next meeting for discussion.

D. Preliminary Observations and Suggestions from the MAC Opioid Use Subcommittee – Dr. Gean

Dr. Gean, on behalf of the subcommittee, gave a presentation covering recommendations on opioid use. The subcommittee comprises Dr. Gean, Dr. Lorber, with assistance from Kathryn L Hahn, PharmD, CPE, DAAPM and the division's Juerg Kunz. Afterwards, the committee discussed their thoughts on their presentation.

The committee advised that 2 to 3 weeks (4 weeks maximum), rather than 3 to 6 months, is a preferable amount of time for initial opioid treatment. During this stage, the committee recommended that the primary care practitioner should educate the patient, setting realistic and reasonable expectations for the treatment, and the dangers of treatment beyond the initial treatment period.

The subcommittee said that for the time being the subcommittee is defining primary care practitioners as family doctors, and general internists. However, he said that one of the jobs of the subcommittee will be to concretely define the audience for the training.

The committee recommended developing a flow diagram as a tool for primary care practitioners to use that is prescriptive at the start and progressing to broader clinical decision making.

The committee asked the subcommittee if it's common for physicians to be found culpable for a worker's opioid-related accident. The subcommittee said physicians are rarely found culpable, though it does happen. In addition, the subcommittee explained that chronic cancer patients on chronic opioids don't have higher rates of driving accidents than other patients. The subcommittee said that primary care practitioner's patient will have to be evaluated appropriately, using best judgment.

The committee asked if there are any non-occupational studies or guidelines related opioid use. The subcommittee said that they hadn't come across any. The committee commented that the subcommittee might like to address how something like occupational back injuries have different outcomes than non-occupational back injuries.

The committee and subcommittee discussed how some workers use prescriptions to limit functionality at work, while some workers don't disclose they're taking opioids so they can work. The Committee said it's difficult to know when a patient on opioid therapy crosses over from being stable to be chronic and being unable to function at work.

The committee said there are no guidelines addressing workers who are disallowed from driving to work and perform a sedentary job, while at the same time, for example, being

allowed to drive to the doctor's office for an appointment. The subcommittee explained that there are no guidelines addressing norms of behavior, which is one of the areas they will address. The subcommittee said if the primary care practitioner gives a good clinical record of daily living and function, discontinuities of logic should narrow.

The committee said that employers sometimes have reduced confidence in return-to-work programs because of a lack of communication between the primary care practitioner and the employer about when the worker will be fit to perform work duties. The subcommittee said that they know that this issue is being addressed elsewhere.

The committee said that insurers would prefer a 'cookie cutter' approach to the training, which would clearly demonstrate when a primary care physician is at fault. But the subcommittee presentation and Dr. Chou's presentation shows that this is a complex area.

The committee said they are seeing more patients who are being overprescribed narcotics at pain care clinics.

The committee and subcommittee discussed that a realistic end point for the project would be to develop an approximate set of norms that can be used as an educational tool for primary care practitioner, showing them when they are providing treatment outside of accepted practice boundaries.

The subcommittee said they will email the presentation to all committee members along with questions relating to the project's focus.

E. CPT Codes – Juerg Kunz

The division presented examples of procedures included in the different service categories to the committee. The committee and the division discussed that physical medicine and rehabilitation is a subcategory of medicine. The committee asked why physical medicine is separated from medicine as a category. The division said that they didn't know why.

F. Division 009 Rules – Kevin Willingham

The division presented a summary of rules revisions that were of importance to the committee. They were,

- Annual Fee Schedule Review – Conversion Factors
- Rule: 436-009-0004 Adoption of Standards
- Rule: 436-009-0022 Ambulatory Surgical Center Fees
- Rule: 436-009-0030 Insurer's Duties and Responsibilities
- Rule: 436-009-0015 Limitations on Medical Billings
- Rule: 436-015—0090(2) Charges and Fees, Hospital Fee Schedule, and
- Administrative Burdens/Physician Hassle Factor

The division asked the committee whether they should adjust the conversion factors for physician and other medical service provider service categories. The committee asked if more money is going to be available to the CPT codes with the adjustments. The division said there is unlikely to be an across the board increase in payments. The division said they are working on making it fair, retaining physicians, and supporting the business community at the same time.

The committee said that they would like to work with the division on adjusting conversion factors, the parity issue, and a two-tier conversion factor for surgery. In addition, the committee asked for the opportunity to work with the division to ensure that physicians don't unduly suffer at the expense of others when the CPT codes are adjusted.

The committee asked if insurers are likely to co-operate in providing physicians increased compensation so they are willing to treat workers' compensation patients. The division said that insurers have shown a willingness to cooperate in this area because of the access issues and inadequate care for workers' compensation patient they have seen in the industry.

The division said that access has two issues. Firstly, increasing the pay for those physicians in the workers' compensation system, and secondly, reducing hassle factors to encourage more physicians to enter the worker's compensation system.

The committee explained that it takes more time to treat a workers' compensation patient than it does a general health care patient, and primary care practitioners aren't willing to spend more time treating workers' compensation payments for less pay. In addition, the committee commented that recruiting physicians from out of state is increasingly becoming a problem.

The committee asked if the division could share with everyone the recent 'State of the States' report that included trends and data that might be relevant and beneficial when looking at access issues

The committee asked what have been the premium rates for employees over the last five years. The division said that premium rates have remained steady or gone down over the last 21 years, the primary reason being fewer work place injuries. The committee added that the severity of workplace injuries has also decreased contributing to this decline. The committee asked if the division has access to NCCI resources to obtain some actuarial background. The division said they can compare Oregon-specific workers' compensation data to NCCI data to see how the division compares on a National basis. Concerning the hospital fee schedule, the division said is a long term project and not one for this year. The division said they are looking at moving from one payment methodology to another payment methodology. The division said they are working to obtain data from hospitals to see what they are paying for similar services. The committee recommended tracking time loss separately to see its impact.

The division asked the committee to email their further thoughts on the presented rules revisions for discussion at an upcoming external advisory committee. The division said the committee is invited to attend the meeting.

Adjournment:

Dr. Bowman adjourned the meeting at 11 am. The next meeting will be held on March 12, 2010, from 9 am to 11:30 am, at Clackamas Community College.