



**THE STATE
OF WORKERS'
COMPENSATION
CLAIMS**
BACK TO BASICS

BY LAUREN HILAN, GENESIS, CHICAGO

As those familiar with Workers' Compensation (WC) know, the fundamental purposes of the WC system are to help injured workers recover from accidents and illnesses and, when possible, achieve the ultimate goal of returning injured workers to employment. Since the beginning of the system, the bedrock of success has been the claim handler, injured worker and treating physicians acting as a team, working together towards recovery and return to work.

While WC systems vary from state to state, all systems are based on employees giving up the right to sue employers in return for payment of benefits for loss of earnings and medical care. When it comes to medical care, the injured worker receives all medically necessary and reasonable treatment without having to pay deductibles and co-pays. Sounds simple enough, though over the past few decades the medical side of the WC system has become increasingly complicated, extremely expensive and, when it comes to managing chronic pain cases, far removed from WC's fundamental goals of recovery and return to work.

Most troubling of all, it's now becoming apparent that the necessary industry responses to controlling and addressing over-treatment and increasing drug, especially opioid, usage has inadvertently interfered with and almost destroyed the all important claim handler, injured worker and treating physician team approach.

The Issues

How did this happen and what can be done to return the industry focus to that recovery and return-to-work, collaborative-team approach? Constant reports have made it clear that for quite a number of years, growth in WC medical costs has been at twice the rate of healthcare costs and a significant portion of those increased medical care costs have stemmed from chronic pain cases. It's obvious that treatment of injured workers now differs greatly from group health claimants in the amount, duration and mix of services prescribed and consumed.

In an effort to address these continued cost increases and to improve treatment effectiveness, the WC industry has spent more than a decade focused on controlling ever-increasing medical (including drug) costs and usage by adopting state specific laws concerning acceptable treatments and tests and implementing cost control measures, such as establishing fee schedules for maximum payment amounts.

While very important and definitely necessary to help address this difficult industry problem, the establishment of and focus on such external cost control reforms and treatment measures gradually, and inadvertently, damaged and nearly destroyed the practice of claim handler, injured worker and treating physician working as a team focused on recovery and health. So much so that today the WC industry approaches injured workers and the medical community more as adversaries than collaborators in the injured worker's recovery and return-to-work process. Even more troubling, the injured workers have become so removed from what little remains of the collaborative process that they have become nearly invisible. The injured worker's treatment has become the object and target of significant cost control efforts but that same injured worker is no longer an active participant in his or her own medical recovery discussions and efforts. The medical community and WC industry seem to have lost sight of the fact that helping the injured worker recover is the fundamental reason for their existence.





Claim Solutions

The question now is—What are the ways to return focus to the WC's fundamental goal of helping injured workers recover and, when possible, returning injured workers to employment?

First and foremost, the claims arm of the WC industry needs to return to working more closely, and respectfully, with the injured worker and the treating physicians on developing treatment plans that focus on reducing health risks and emphasize recovery. When it comes to recovery for chronic pain, the focus of the injured worker's treatment needs to shift from eliminating pain to the more realistic goal of recovering functionality. In that regard, education of and communication with the claimant will be crucial. Not only should the claimant be educated and continually reminded as to how the WC system operates, the injured worker also needs to be kept informed as to exactly how his or her treatment is progressing. The aim is to make the injured worker, and his or her family, active participants in medical treatment decision making.

When it comes to the chronic pain sufferer, it is important for both the claim handler and the treating physicians to educate the patient on the principle that even though they may never again be pain-free, it doesn't mean that they will never again be

functional and, if at all possible, opioid-free. The goal should be to educate the injured worker to have a health focus, rather than a pain focus.

When a worker is paralyzed, for example, treatment doesn't focus on making that injured worker walk again; it is instead geared toward allowing them to recover to a new "normal" in terms of their medical health. This comes about with not only a great deal of medical treatment but with a significant amount of communication with the paralyzed individual.

This same amount of time and communication effort needs to be taken in chronic pain cases. Along with this approach, it is important that claim handlers have improved medical training to enhance their knowledge of treatment protocols and options. Additionally, both the claim handler and the injured worker should have access to medical expertise resources.

While communication and collaboration is essential, the reality is that to recover, many long-term chronic pain and—most often—opioid-dependent, injured workers must participate in a multi-week/multidisciplinary treatment program focused on improving function and learning how to perceive pain. There are a number of excellent multi-disciplinary programs available. Since the program cost is paid in one lump sum, this approach is often rejected as too costly by an industry focused on cost control. The reality is that such a cost is ultimately less expensive in the long run than multiple years of claim handler approvals for a series of drugs, diagnostics, injections, pain pumps, stimulators and surgeries. Multi-disciplinary chronic pain treatment programs are necessary and generally highly effective, but they are most definitely not quick fixes and they are not inexpensive.

In addition to developing medical recovery strategies for identified long-term chronic pain cases, it is becoming increasingly important for the industry

“Even more troubling, the injured workers have become so removed from what little remains of the collaborative process that they have become nearly invisible.”

to develop state-of-the-art technological risk assessment models. These will help the claim handler better evaluate and identify injured workers most “at risk” of also becoming long-term, opioid-dependent chronic pain claimants.



Lauren Hilan is Vice President and Senior Unit Manager of the Genesis Workers' Compensation Claim Department. Based in Chicago, Lauren may be contacted at 312 526 7580 or lauren.hilan@gumc.com.

The Future

Is there hope that the claim handler, injured worker and treating physicians will once again act as a collaborative team? I think so. Returning to a focus on communication as well as treatments that concentrate on the injured worker's health and recovery will not only provide the industry with powerful and time-tested claims management opportunities, it will re-establish the foundation that allows the team to act together with the shared goal of recovery and return to work. ■

This article was originally submitted to Gen Re for use in its Insurance Issues publication, May 2012.

GENESIS[®]
Start with Security[®]

A Berkshire Hathaway Company

This information was compiled by Genesis Management and Insurance Services Corporation and is intended to provide background information to our clients, as well as to our professional staff. The information is time sensitive and may need to be revised and updated periodically. It is not intended to be legal advice. You should consult with your own legal counsel before relying on it. Genesis Insurance Company is licensed in the District of Columbia, Puerto Rico and all states. Genesis Insurance Company has its principal place of business in Stamford, CT and operates under NAIC Number 0031-38962. Insurance is placed with Genesis by licensed retail brokers/agents. Not all coverages described above are available in all states. Availability of coverage depends on underwriting qualifications and state regulations.