

## **Medical Advisory Committee**

Meeting Minutes  
March 12, 2010

### **Opening:**

Dr. Keenen called to order at 9 am on March 12, 2010 a meeting of the Medical Advisory Committee and the Workers' Compensation Division at Clackamas Community College.

### **Present:**

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); Tom Williams, PT; Gary Rischitelli, MD, Kevin Willingham (WCD); Jacqueline Sewart (WCD); Juerg Kunz (WCD).

Absent: Ronald Bowman, MD (Chair); Maria Carraher (Worker Representative).

#### **A. Approval of Minutes – Medical Advisory Committee**

The committee unanimously approved the January 8, 2010 meeting minutes as distributed.

#### **B. Committee Member Resignation – Kevin Willingham**

The division informed the committee that Maria Carraher has tendered her resignation as the worker representative on the committee. Her resignation is effective March 15, 2010. The division said that they will be accepting applications for the vacant worker representative position. The division briefly discussed with the committee the qualities they are looking for in a candidate.

#### **C. Discussion of how MAC wants to proceed regarding the opioid issues by the Opioid Subcommittee – Dr. Gean**

The division discussed with the committee how they have received an increase in cases involving opioids and issues of diversion and addiction. Additionally, the division said they have received requests from insurers to mandate programs for cases where there has been inappropriate, ineffectual, and excessive use of opioids. The division discussed with the committee a recent case study that demonstrated such a case, and highlighted the importance the Opioid Subcommittee work.

The committee said that the educational part of any program should include describing tools and how to use them; for instance, the use of different detoxification and functional recovery programs. Concerning programs like these, the subcommittee said that insurers have shown a preference to pay for treatments at functional recovery centers rather than paying for costlier procedures later.

The committee discussed involving other state agencies and the Oregon Medical Board in the development of any program. The committee discussed the idea of adding an educational piece to the physician trainings offered by the Oregon Pain Management Commission. The division said they will contact other state agencies to see what training classes they are currently running with a view to setting up possible partnerships. Additionally, the committee recommended that the division contact medical schools and Managed Care Organizations for their input in the development and operation of any program. The committee also said that the state of Washington established an interagency medical director's task force that created guidelines for Opioid Dosing for Chronic Non-Cancer Pain. The committee referenced this alliance as a successful example of coordinating an effort between stakeholders. The committee also recommended that the division contact the Oregon Medical Board to see if the board has encountered or dealt with an overprescribing problem.

The committee said that, although they agree that an awareness and educational campaign needs to be developed, it may be difficult to reeducate physicians on account of their busy workloads and stressful work environments. However, the subcommittee commented there have been examples of physicians changing their behavior through similar structured campaigns, relating how physicians recently altered the way they treat patient back sprains. On the subject of physician education, the subcommittee said a set of simplified rules of thumb would be easier to market to physicians. Additionally, the subcommittee said that physicians know the basics, but they may need, for example, guidance on how to treat patients who ask for opioids after their initial prescription.

The committee discussed how a physician is unlikely to treat workers' compensation patients differently to other patients. Knowing this, the committee said that any program should focus on changing the treatment culture for all patients, not just workers' compensation patients if it's going to be effective. The committee advised that physicians are more likely to change their treatment behavior if established guidelines are supported by data.

The committee proposed a motion for the subcommittee to draft an outline of best practices for physician education on the use of opioids by the next committee meeting on Friday, May 21. The committee accepted the motion. At the meeting, the committee said it would discuss the draft, and any information gathered by the division after contacting other state agencies, boards and organizations.

**D. Discussion of current non-compensable technology, and new technology to be considered (including Surface EMG). Formation of subcommittee to periodically review technologies – Juerg Kunz**

The division and the committee discussed a list of technologies currently excluded from compensability under ORS 656.245(3) as they are considered unscientific or are unproven. The division said that in the last two years they have not been contacted to remove any of the technologies from the list. The division said they will only consider the compensability of a technology if they are specifically asked to look at it.

The committee said that some technologies are regaining popularity such as prolotherapy. Because of this, the committee said it's appropriate to reexamine the worth of these reemerging technologies. Additionally, the committee said they need to consider previously accepted technologies that have fallen out of favor such as discograms, spinal chord simulators, and TENS units.

The division said there are few current studies available on surface EMGs. The committee recommended that the division research the American Academy of Neurology's and the American Academy of Physical Medicine and Rehabilitation's position on surface EMGs. The committee said that these bodies had previously declared surface EMGs as having no role in clinical medicine. Additionally, the committee asked the division to contact Spine Matrix requesting objective studies on their Lumbar Matrix Scan.

The committee recommended that the division visit the state of Washington Health Technology Assessment Program Web site in researching other state's positions on technologies that have been declared safe and effective.

The committee proposed a motion to add a Technology/Compensability item to each agenda. The committee passed this motion. The division said it will provide a Technology/Compensability list for discussion at all future meetings showing inactive technologies, active technologies, future technologies, and technologies the committee need to consider on a timeline such as looking at artificial disc treatment in five years. For the technology to be considered on the active list, the committee said that the treatment would have to have data accepted and published in peer review journals. If necessary, the committee and the division agreed to form subcommittees at each meeting to research technologies. The division and the committee agreed to add items to the active list. Additionally, the division said it would gather studies and data on technologies, customer call data, and invite experts to provide input on subcommittees when necessary.

#### **E. Explanation of benefits hassle factors – Kevin Willingham**

The division and the committee discussed a set of proposed questions that will be used to promote discussion on the administrative burdens and physician hassle factors surrounding explanation of benefits at an external advisory committee meeting on March 16.

The committee asked the division to explain what is meant by 'standardized codes.' The division said that in workers' compensation reason code sets on EOBs vary widely in the insurance industry. By standardizing the reason codes, the division said they hope to improve the communication between providers and insurers regarding payments.

The division invited the committee and their office billing staff to attend and provide input at the advisory committee meeting. Alternatively, the division invited committee input by phone call or email before the day that could be raised at the meeting on their

behalf.

#### F. **Division 009 draft rules** – Kevin Willingham

The division discussed the proposed Oregon Medical Fee and Payment Rules Oregon Administrative Rules, Chapter 436 Division 009 with the committee. The division invited the committee members to attend the rules hearing on April 21, 2010. The division emphasized the following items as being of particular interest to the committee.

- 436-009-0008 Administrative Review before the Director

The division said they have reviewed the appeal languages on the explanation of benefits and insurer practice. As a stop gap measure, the division has proposed a rule that allows a medical provider to request administrative review within 90 days of the mailing date of the most recent explanation of benefit or a similar notification the provider received regarding the disputed service or fee.

- Interpreter Billing Procedures

The division commented on how they have used focus group metrics to write the interpreter fee schedule in way that makes them easier to understand and use.

The division said that, in workers' compensation, interpreters may not require the provider or the worker to prepay for interpreter services.

The division said that family members of the worker and the physician or his office staff are not reimbursable under workers' compensation for interpreter services.

The division said that based on input from the Oregon Medical Association Workers' Compensation Committee there is now an option in the Medical Services Oregon Administrative Rules, Chapter 436 Division 010 to allow the provider to disapprove of the interpreter chosen by the worker if he feels the interpreter is not providing accurate or correct interpreter services. The division said that a physician may offer suggestions for a choice of an interpreter to the worker, but the worker must agree with that suggestion.

- Appendix B 436-009-0040 Maximum Allowable Payment Amounts

The division said that, although it decreased the medicine conversion factor, with increases in evaluation/management and physical and rehabilitation payments, osteopaths and chiropractors will receive an overall increase in reimbursements. The division explained this increase in payments was confirmed by data models they ran using both the old and the new conversion factors.

The division said that, overall, the changes in the fee schedule will result in a 0.8% impact on the pure premium rate.

The division said because of errors in the Federal Register, the division will publish the maximum payment amounts in the rules and will include the actual dollar amount for services.

The committee asked if the division could add a new service category payment for physicians to take account of any complex drug management work arising guidelines developed by the committee. The division said they can't address a service category payment such as that in this edition of the rules, but that they can address incentives for treatment patterns in other ways.

### **G. Adjournment – Dr. Keenen**

Dr. Keenen adjourned the meeting at 10:55 am. The next meeting will be held on May 21 at Clackamas Community College, from 9 am to 11:30 am.