

Medical Advisory Committee

March 12, 2024

Via Teams

BWC Large Conference Room
220 French Landing Drive
Nashville, TN 37243

Members:

Misty Williams, R.N., Travelers, proxy for Rob Behnke
Richard L. Cole, D.C., DACNB, DAAPM, FICCN, FICC(H)
John Brophy, M.D.
James Gregory Kyser, M.D.
Robert Snyder, M.D., BWC, proxy for David Tutor, M.D.

Staff:

Robert Snyder, M.D., Medical Director, BWC
Troy Haley, Administrator, BWC
James Talmage, M.D., Asst. Medical Director, BWC
Mark Finks, BWC
Suzy Douglas, BWC
Suzanne Gaines, BWC
Kyle Jones, BWC

Guests:

Spenser Nelson, MNA GR
Yarnell Beatty, TMA
Adam Jaynes, Managed Government Relations
Alex O'Neal, Arbicare
Troy Prevot, ODG by MCG
Tina Pettingill
Britney Lin, Schmidt Government Solutions
Roy Johnson, MD, MTOEM
Pauline Williams, Fair Health
Carla Townsend, NCCI
Tina Uhing, Hartford
Tiffany Grzybowski, HealthSystems

Via telephone:

Alex O'Neal, Arbicare
Adam Jaynes, Managed Government Relations

In Person:

John Brophy, M.D.
Misty Williams, R.N.

Call to Order

Ms. Williams chaired the meeting. The meeting was called to order at 1:05 PM.

Introductions were made.

Quorum

Mr. Finks took roll of the members; 5/17 were present. Initially a quorum was not confirmed as present (1/3 members needed for a quorum). Later during the meeting, 2 proxies were received, and a quorum was confirmed.

Correction to Quorum numbers. See minutes of June 11, 2024

There are still some Conflict-of-Interest forms out.

Approval of Minutes

The approval of minutes was deferred, pending a quorum.

Old Business

ODG Updates:

At the last meeting there was a question regarding the status of trazodone from Dr. Kyser and Dr. Hazlewood. Dr. Kyser, Dr. Hazlewood, and Dr. Snyder compiled an email that was sent to the ODG. ODG'S response was that as of the next update, trazodone will be included as a "Y" drug for insomnia and for sleep. ODG agreed that trazodone is safe and effective and has been used off label for insomnia across many different patient populations. The drug is also cost effective. ODG will update the status of trazodone as part of the January formulary update, but it was delayed until March.

Dr. Snyder welcomed Mr. Prevot, the new ODG representative. The next ODG update will be March 29, and there will be an update letter on all the changes that will occur.

The ODG website has a tutorial that allows individuals to get a sample of ODG for all the products, especially workers' comp. There are ODG webinars, and ODG will provide a clinical educator for small groups who would like individual training.

Medical Fee Schedule:

Dr. Snyder welcomed Ms. Pauline Williams from Fair Health and shared his computer screen showing the rate tables developed by Fair Health. They will be free of charge to all parties to eliminate the need for providers and payers to calculate their own payments. The only extra steps for determining the correct maximum allowable payment will be the correct modifier for certain physicians' specialties or mid-level providers and psychologists. All physician services will be listed. It is hoped the rate tables will reduce the number of inquiries to the Bureau and disputes to the Medical Payment Committee.

The tables encompass outpatient services, incorporating chapters 0800-02-17 and 0800-02-18. The inpatient services fee schedule, 0800-02-19, will remain unchanged.

These fee schedules have increased the rate offering to attract some subspecialty physicians, including pulmonology, psychiatry, cardiology, neurology, and attract clinical psychologists.

Confusion over the use of certain payment codes has been eliminated by removing most of the special CPT codes and replacing them with state specific Z codes. Certain laboratory procedure payments have been reduced to be in line with national and regional averages. Initial estimates from NCCI assess negligible impact on compensation costs for employers and the rate tables will hopefully attract hard to find specialists.

The US Congress passed a partial reversal of the reduction proposed to Medicare for 2024, which is the reduction from 3.37% down to 1.69%. Once this is officially posted on the Medicare website, Fair Health will update the rate tables before it is distributed. This may delay the release of the rate tables, but hopefully not for long. This does not change any contract unless the contract specifies the percentage of the maximum that's based on Medicare. In that case, the contract prices would have to be recalculated.

Dr. Snyder shared his computer screen and took the committee members and guests through the spreadsheet to explain how the tables work. The Legend and Information button at the bottom of the spreadsheet is key to understanding the rate tables. Dr. Snyder explained how the legends worked with the codes.

The Medical Fee Schedule Handbook will be updated and include explanations of each one of the rate tables. The rates will take effect 4/1/2024 until 3/31/2025. Ms. Douglas added that the Z codes are effective now.

Usually in October or November, Medicare comes out with a proposed rate conversion factor. So far, every year Congress revises the proposed Medicare rate. Usually it is done in February, but this year it was done on March 8th. As a result, Fair Health is waiting until Medicare publishes it on their website and then will update the rate tables.

It is important that the individuals who are going to use the rate tables become familiar with them because the numbers are not as important as the concept. It will be much easier to use the tables to put in the amounts if you understand the legends. Dr. Snyder will present it to the Medical Payment Committee on March 19. On March 21, there will a Q&A Open House at 9:00 to go over this material in a Teams meeting. There will be another one at 2:00 on March 25.

There is a link for the pre-order for the rate tables at the Fair Health website. When the tables become available, there be an email with the link to download as an update.

Board certified or board eligible physicians may be entitled to additional reimbursement, depending on their subspecialty or participation in the Certified Physician Program. Rules 0800-02-17 and 0800-02-18 have the appropriate modifiers for physician specialties and the website for the Certified Physician Registry at [Certified Physician Program \(CPP\) Registry \(tn.gov\)](https://www.tn.gov/certified-physician-program).

Certified Physicians Program:

There are 23 physicians in the Certified Physicians Program, and the names and NPI numbers are available on the Bureau website. When billers see the Z codes, they can go to the Bureau website to confirm that the physicians are Certified Physicians for those services. These are already in effect.

Reward Program:

Ms. Douglas announced that all the evaluations of the applicants are completed. The Honor Roll was awarded to 7 employers. Some of the employers have multiple locations so the program is in the process of reaching out to those employers to notify them. There will probably be a press release to let everyone know the employers and it will also be announced at the conference.

Mr. Holmes and Ms. Douglas would like to reach out on behalf of the Next Step Program and the Reward Program at some of the conferences and possibly get on some of the panels to let more employers know about the benefits of the Reward Program and Next Step Program. If anyone is aware of any upcoming annual conferences or employer meetings, please let Ms. Douglas know.

Rules and Legislation Update:

Mr. Haley presented the legislative updates. The sunsets for the Bureau, Medical Advisory Committee, and Medical Payment Committee have been extended for another 5 years, through 6/30/2029. Those bills were signed by the governor on 2/21/2024.

The administration bill was signed by the governor last Thursday, March 7. The main piece of the bill was an extension of coverage fraud legislation for the Uninsured Employer Misclassification compliance unit. In 2021, there was legislation that increased enforcement mechanisms for the Bureau, such as subpoena power and distress warrants, to enforce the Uninsured Employer Misclassification statutes and the penalties assessed. It received a 5-year extension until 6/30/2029.

The bill also took care of some other matters. It did away with the paper form for the notice of controversy. The form is an electronic filing so the language and code about the paper filing was eliminated. The time frame for an employer to file the First Report of Injury with the Bureau is now 14 days, no matter how many days were missed by the injured worker.

The legislation that expands PA's and APN's scope of practice is moving through the legislature. It does not deal specifically with workers' comp. There's nothing in it about panels or addressing causation or impairment ratings.

There is a bill that would permit attorneys to carry concealed handguns to judicial proceedings. In most judicial proceedings, the judge is generally allowed to carry a concealed weapon as are law enforcement public officials. This bill would allow attorneys who have a permit to carry a concealed weapon into a judicial proceeding.

There are some Commerce and Insurance bills that deal with a guaranty association being set up for self-insured employers as reaction to the Yellow Freight bankruptcy situation.

Ms. Terry, Dr. Snyder, and Mr. Blaisdell went to the Government Operations rule review last month. The medical impairment rating registry rules were amended and approved by the Joint Government Operations Committee. Those changes went into effect March 4, and would allow chiropractors to be included in the medical impairment rating registry.

There was an increase in the missed appointment billing.

Ms. Williams had questions about a bill that does away with panels of 3 providers and allows the patient to choose their own doctor. Presently there is no support for this bill, HB1467 Representative Towns. It was leftover from last year and rolled to the first calendar of 2024. The bill made it to a House subcommittee calendar, but during that meeting the sponsor sent the bill to the Workers' Comp Advisory Council to be reviewed. That has been a month or more, but there's been no activity in the Senate, and the bill does not seem to have sufficient support.

Quorum Confirmed:

At this point, Dr. Snyder notified the committee that Ms. Williams received Mr. Behnke's proxy. Dr. Snyder received Dr. Tutor's proxy. Mr. Finks confirmed a quorum was present (7/17).

Approval of Minutes:

Dr. Cole motioned to approve the minutes of December 5, 2023. Dr. Kyser seconded. The minutes were approved without change.

ODG Update:

There were ODG updates that occurred in December. Dr. Kyser motioned to approve , and Dr. Brophy seconded. The committee approved the ODG changes without dissent.

UR Report:

Dr. Snyder presented the UR report. There were 4 requests for penalty sent to the penalty unit since the last meeting. Two requests were for failure of notice because the information on the C-35A was not updated . When there is a denial of treatment, the injured worker is required to receive the notice of denial in the mail. Any patient attorneys, representatives, and physicians are also required to receive the notice by fax or email. The Bureau was notified by the attorneys that the patients had not been notified because the addresses were incorrect on the C-35A.

Two other requests occurred because the utilization denials were not legitimate. Either they cited the wrong ODG section, or they did not have records. Denial of treatment because they don't have records is not a legitimate reason for denial in the state of Tennessee.

There were 2 cases of UR denials in which the physicians were required to submit a UR appeal. When the adjuster was notified of the appeal, the treatment was approved. This occurred multiple times on 2 patients. Penalties were sent to the adjusters on both claims. This is not legitimate because it requires time and effort for a physician to submit a utilization appeal only to have the adjuster approve it. One of the cases involved was filed with the Bureau, and the Bureau went through the process of overturning the denial before the approval came through. This was a waste of time for the staff.

The committee is looking very closely at this practice. If any physicians regularly observe utilization review denials being overturned and then the adjuster immediately approves the treatment, please bring this to the committee's attention.

Dr. Snyder thanked Dr. Kyser for bringing 2 of these cases to the committee's attention. This is an abuse of the utilization review that adjusters need to examine closely before they send a case to utilization review. They should have the history that these treatments have been previously approved or that there is good medical documentation as to why they shouldn't even go to utilization review.

AI:

Corvel provides consultation services for the Medical Payment Committee, and they are also the vendor for workers' compensation cases for State of Tennessee employees.

Corvel announced that they are using a generative AI in their work. All patient and client data are used inside the digital walls of Corvel, so it is all an internal document. This means not taking outside records or moving records to an outside vendor; the use of AI is entirely internal. When dealing with medical records, make sure that the use of AI applications to summarize records is all internal because none of the AI vendors are currently HIPAA compliant.

COVID Update:

There are no updated statistics, but the virus is still active so exercise caution.

New Business:

NCCI Report:

The NCCI released their quarterly 2023 economics briefing that is available on their website. It reports on additional jobs added, what the normal labor market is, wage growth, and workers compensation payroll growth over the course of the last year.

There are 5 states where psychedelic bills have been introduced to legalize use of mushroom psilocybin, MDMA, and ketamine to treat mental illnesses. The states that have those bills are California, Hawaii, Massachusetts, New Jersey, and Arizona.

In Tennessee there has been no push for psychedelic bills, and currently there is no significant activity for medical marijuana this year in the state legislature.

Gabapentin and Lyrica cause severe exacerbation of chronic obstructive pulmonary disease. Individuals that are already at high risk for pulmonary complications should be aware of this.

The FDA approved spinal cord stimulator systems for non-surgical back pain. Boston Scientific and Solace received their approval for non-surgical back pain under similar device approval process. This may come up under pain management. It has not yet been approved by the ODG guidelines, although they will probably soon update their spinal cord stimulator guidelines.

There has been outreach to the Tennessee Psychiatric Association, and they published an article Dr. Snyder wrote asking for the assistance of psychiatrists for workers compensation patients. With proper communication and an effective system, the friction involved with treatment of workers' comp patients can be limited.

Dr. Snyder thanked Dr. Kyser for his help in getting contacts and for help in identifying ways to try to reduce frictions involved in treating workers' compensation patients.

The Tennessee Psychiatric Association is having their annual meeting on Saturday, and Dr. Kyser is making a presentation about workers' compensation.

Announcements:

Next Meeting: 6/11/2024

Adjournment: 2:05

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