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Billing and Collections for the QME

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Official Medical Fee Schedule

- The following services are paid according to the Official Medical Fee Schedule (OMFS).
  - Diagnostic tests including X-rays and Laboratory services.
    - These services are not payable unless the subjective complaints and physical findings warranting the test are included in the medical-legal evaluation report.
    - Absent prior authorization, they are not payable if adequate medical information is already in the medical record provided to the physician.

Medical-Legal Fee Schedule

- The following services are paid under the Medical-Legal (MLFS)
  - Comprehensive medical-legal evaluations
  - Follow-up medical-legal evaluations
  - Supplemental medical-legal evaluations
  - Medical-Legal testimony

What makes it Medical-Legal?

- Medical Dispute
- Proper Objection
- LC §§ 4062.1 and 4062.2
- Request of a Party
- Capable of Proving or Disproving the Disputed Issue

When does a Dispute Exist?

- LC § 4060
  - Disputes on compensability
- LC § 4061
  - Disputes on PD, Apportionment and Future Medical
- LC § 4062
  - Disputes on TD eligibility, additional body parts, P&S status, anything else that is not current treatment

Proper Objection

- LC § 4060
  - Either:
    - Letter by Defense to either the Applicant (unrepresented) or the Applicant's Attorney (represented) during the first 90 days objecting to the compensability of the injury on a medical basis.
    - Letter by Applicant or Applicant's attorney indicating the need for a medical exam to determine compensability. No time limit for Applicant side.

Proper Objection

- LC § 4061
  - Letter of objection from either party on the issue of PD, Apportionment of need/extent of Future Medical Care.
  - Must identify the medical report the party is objecting to with name of doctor and date of report.
  - No time limit for this type of objection.

Proper Objection

- LC § 4062
  - Letter of objection from either party regarding medical issue:
    - TD status
    - P&S status
    - Compensability of added body parts
    - Transfer or Continuity of Care (MPN)
  - Can't be regarding current treatment issues for dates of injury on or after January 1, 2013 or UR determinations delivered after June 30, 2013 for all dates of injury.
  - Must send objection, in writing, within 20 days (represented) or 30 days (unrepresented).
  - Must identify the name of doctor and date of report being objected to.

LC §§ 4062.1 and 4062.2

- All of the medical disputes must go through the QME or AME process first.
- How do you get a QME?
- Who gets to pick the doctor?

LC § 4062.1 – Unrepresented

- No AME's.
- Injured worker may request a QME panel after receipt of either notice of need for Medical-Legal evaluation for compensability letter or an objection under LC §§ 4061 or 4062.
- Defense must wait 10 days before requesting QME panel.
- Injured worker picks the QME
- If Injured worker doesn't pick the QME in 15 days, claims can pick.

LC § 4062.2 – Represented

- Parties may agree on an AME.
- Parties may also go straight to a QME panel.
  - Must send the objection letter to opposing party.
  - Must wait 10 days (plus 5 days for mailing) before submitting panel request.
  - Once panel is issued parties go through the striking process.
  - After striking parties can make appointment with doctor on the list.
  - No more Agreed Panel QME's.

Request of a Party

- Person will contact the QME to make an appointment
- Find out the QME panel number
  - If AME find out names of both parties
- You should receive a letter from one or both parties
  - Identifies the issues
  - Provides the medical records
  - Tells you where to send the report

Capable of Proving or Disproving Disputed Issue

- Report needs to answer all questions posed by the parties.
- Report must meet the requirements of 10682.
  - Must address all applicable elements.
- The discussion section of the report fit the facts and justify the conclusions.
- No guessing!
- If further information is necessary to draw a conclusion, it needs to be spelled out in the report.

Are You Getting a Legit Referral?

- Safe referrals
  - Pre-2005 parties can choose their own QME
  - PTP in the MPN (accepted claims)
  - PTP non-MPN (denied claims)
  - Panel Doctor
  - Consultant as long as you send the report to the PTP
- Unsafe referrals
  - Non-Panel QME's post 2005
  - Other physicians (non-MPN)

What is a Consultation?

- "A consultation is a type of service provided by a physician whose opinion or advice regarding evaluation and/or management of a specific problem is requested by another physician or other appropriate source. The consultant's opinion and any services that were ordered or performed must be documented in the patient's medical record and communicated by written report **to the requesting physician or other appropriate source.**" CPT guidelines
- Other appropriate source:
  - Claims
  - Attorney
  - AD
  - WCAB
  - AME or QME (acupuncture only)

Consult

- Answers a question or questions related to need for treatment
- Can be requested by any appropriate source
- Does not deal with disputed medical issues
- Can do diagnostic testing
- Can't treat on the same visit
- Written report to referral source required

Med-Legal

- Med-Legal
  - Answers a question or questions related to a disputed medical issue identified by the parties
  - Must be requested by a party, the AD or the WCAB
  - Must be capable of proving or disproving the disputed issue
  - Can only be provided by the PTP, AME or QME
  - Can do diagnostic testing
  - Written report to the parties required

Treatment

- Actually provides treatment to the injured worker
- Requests authorization for treatment
- Can make referrals to consultants and other treaters
- Can do diagnostic testing
- Written reports required of PTP's only, when specified under reg 9785

When Can the PTP Write a Med-Legal?

- Has to actually be the PTP
  - 9785 (a) defines PTP

(1) The "primary treating physician" is the physician who is primarily responsible for managing the care of an employee, and who has examined the employee at least once for the purpose of rendering or prescribing treatment and has monitored the effect of the treatment thereafter. The primary treating physician is the physician selected by the employer, the employee pursuant to Article 2 (commencing with section 4600) of Chapter 2 of Part 2 of Division 4 of the Labor Code, or under the contract or procedures applicable to a Health Care Organization certified under section 4600.5 of the Labor Code, or in accordance with the physician selection procedures contained in the medical provider network pursuant to Labor Code section 4616.

There Has To Be A Dispute

- "Disputed medical fact"
  - the employee's medical condition.
  - the cause of the employee's medical condition.
  - treatment for the employee's medical condition (only for dates of injury prior to 1/1/2013 or if UR decision is communicated before 6/30/2013).
  - the existence, nature, duration or extent of temporary or permanent disability caused by the employee's medical condition.
  - the employee's medical eligibility for rehabilitation services.

Must have an AME or QME First

- Under 4061 and 4062
  - Parties must obtain an AME or QME under 4062.2
  - PTP can rebut the determination of the AME or the QME
- Only 4060 allows the PTP to issue a report payable by the defense

Can Other Physicians Write a Med-Legal?

- No!
  - Only a PTP, an AME or a QME can write a Medical-Legal
  - Consultants and Secondary Treating Physicians cannot write a Medical-Legal

Med-Legal Bills – Amount in Dispute

- LC 4622(a) requires med-legal bill disputes to undergo the IBR process.
- Employer must pay or provide written explanation of review within 60 days.
- LC 4622(b) requires the provider to request a second review within 90 days on an AD form
- Employer must respond within 14 days.
- LC 4603.6(a) allows the process to proceed to IBR within 30 days of second review.

Med-Legal Bills – Other Disputes

- LC 4622(c) and regulation 10451.1 covers Med-Legal disputes other than the amount paid.
- Employer must respond to bill within 60 days with written explanation.
- Provider has 90 days to object to the employer's determination. If no objection, the outcome is final.
- If there is an objection, employer must file a Petition for Determination of Non-IBR Dispute and a DOR within 60 days of the objection.

IBR Fee Reimbursement

- The provider must initially advance the costs of the IBR. ($180.00)
- These costs will include the DWC costs of administration, in addition to the IBR.
- LC 4603.6(c) however requires that this fee be reimbursed to the finding of the IBR allows the provider with greater reimbursement.
- Thus both parties are at risk for the costs of the IBR, and there is some incentive to resolve their disputes.

Non-IBR Disputes – Med-Legal

- NO NEED TO FILE A LIEN!
- WCAB Regulation 10786 – Non-IBR Medical-Legal disputes
  - Threshold issues
  - Not needed to prove or disprove a contested claim
  - Defendant failed to follow the rules
  - Provider failed to follow the rules

Medical-Legal Threshold Issues

- Claims doesn't have to pay for Medical-Legal when there is a threshold issue
  - Employment
  - Statute of Limitations
  - Insurance coverage
  - Personal or subject matter jurisdiction
- Injury AOE/COE and denied body parts are <u>not</u> threshold issues

Objection Process

- If dispute is based on an EOR providing no payment based on a Non-IBR dispute provider must send an objection letter within 90 days of service of EOR
- Claims administrator must file a "Petition for Determination of Non-IBR Medical-Legal Dispute" and a DOR within 60 days of receipt of provider's objection letter

Provider May File A Petition

- Provider may file Petition and DOR if claims administrator fails to file as required
- Provider may also file Petition if claims administrator has breached a duty under LC 4622 (a) or the AD's rules earlier in the Non-IBR process
- If provider has to file the Petition, Claims may be subject to costs and sanctions
- WCAB can defer a hearing pending resolution of threshold issues

Questions?