



California Workers' Compensation Institute
1333 Broadway, Suite 510, Oakland, CA 94612 • Tel: (510) 251-9470 • Fax: (510) 763-1592

VIA E-MAIL: dwcrules@dir.ca.gov

February 16, 2016

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation, Legal Unit
Post Office Box 420603
San Francisco, CA 94142

Re: 1st Forum Comments on Draft Guidelines for Mental Illness and Stress

Dear Ms. Gray:

These first Forum comments regarding draft Guidelines for Mental Illness and Stress are presented on behalf of the members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 72% of California's workers' compensation premium, and self-insured employers with \$46B of annual payroll (28% of the state's total annual self-insured payroll).

Insurer members of the Institute include ACE Group, AIG, Alaska National Insurance Company, Allianz/Fireman's Fund Insurance Company, AmTrust North America, Chubb Group, CNA, CompWest Insurance Company, Crum & Forster, Employers, Everest National Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, Pacific Compensation Insurance Company, Preferred Employers Group, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, State Farm Insurance Companies, Travelers, XL America, Zenith Insurance Company, and Zurich North America.

Self-insured employer members include Adventist Health, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Santa Ana, City of Torrance, Contra Costa County Schools Insurance Group, Costco Wholesale, County of Alameda, County of San Bernardino Risk Management, County of Santa Clara, Dignity Health, Foster Farms, Grimmway Enterprises Inc., Kaiser Permanente, Marriott International, Inc., Pacific Gas & Electric Company, Safeway, Inc., Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group; Southern California Edison, Special District Risk Management Authority, Sutter Health, University of California, and The Walt Disney Company.

The California Workers' Compensation Institute supports the addition of guidelines on Mental Illness into the regulations on Medical Treatment Utilization Schedule (MTUS) but recommends revising the draft of Section 9792.23.8 and of the Mental Illness and Stress Guideline as described below.

Section 9792.23.8

Recommendation 1

(a) The Administrative Director adopts and incorporates by reference the Mental Illness & Stress Guideline [insert effective date] consisting of an edited version from the Mental Illness and Stress section of the {Official Disability Guidelines, March 25, 2015}, which the Division of Workers' Compensation has adapted with permission from the publisher into the MTUS from the Official Disability Guidelines.

Discussion

The draft Guideline does not, and should not, simply adopt and incorporate by reference the entirety of the Mental Illness & Stress Guideline (Official Disability Guidelines, March 25, 2015). The draft version excludes some portions of the Official Disability Guidelines, and further the Institute believes some adaptations to the draft version are necessary for reasons described below.

We note that the verbiage proposed in Section 9792.24.2 on the Chronic Pain Medical Treatment Guidelines in the MTUS includes the recommended "consisting of an edited version from the Official Disability Guidelines,"...."which the Division of Workers' Compensation has adapted with permission from the publisher," and we believe that language is appropriate in this section as well.

Recommendation 2

The Institute recommends addressing stress, where it is reasonable and necessary to do so in order to cure or relieve from the effects of an industrial injury or illness, as a special topic under Section 9792.24 in a new section 9792.24.4.

Discussion

Since stress is not a body part or injury, and since stress may have a role in a variety of injuries and illnesses, and not just mental illness, we believe stress will be more appropriately addressed as a special topic in the MTUS. The procedures appropriate for stress relief can be separated from procedures that address specific mental illnesses, and adopted into a new Guideline on stress.

The Mental Illness Guideline

Recommendations and rationale

- Because stress is not an injury or illness, we suggest confining this new Guideline in Section 9792.23.8 to mental illness and changing its name to “Mental Illness Guideline.”
- Remove from the Guideline the Treatment Planning section, which is problematic and includes some inappropriate -- or even unlawful material; for example:
 - The introductory note to that section states it “is not intended to be a rule and therefore should not be used as a basis for Utilization Review.” Something not intended to be a rule should not be part of the California Rules and Regulations.
 - The section suggests addressing and evaluating a potential workers’ compensation mental illness outside of the workers’ compensation system “given the harmful health effects of involvement in workers’ compensation”
- Limit procedure topics to treatment/test modalities for mental illness and remove from the procedure summary topics such as:
 - Definitions – e.g., for “major depressive disorder” and “post-traumatic stress disorder”
 - other topics that are not medical treatments – such as “activity restrictions,” “causality,” “insomnia,” “optimism,” “return to work,” “spiritual support,” and “work”
- List each treatment/test so that it can be quickly located alphabetically to find appropriate recommendations and conditions
- Consolidate recommendations under the name of the procedure. Sometimes procedures are listed by condition, and sometimes they are not. For consistency and ease of use, the Institute recommends listing the procedure once and stating the recommendations for each condition under that procedure
- Revise the study search and study summaries and recommendations to focus on employees suffering work-related mental illnesses. Many of the study summaries and recommendations in this draft are focused on chronic pain patients instead of on employees with mental illnesses; however mental illnesses are not limited to employees with chronic pain. It appears that the recommendations on psych tests are based only on literature searches related to chronic pain by D.Bruins in 2001, performed for the Colorado Division of Workers’ Compensation on Psychological Tests Commonly Used in the Assessment of Chronic Pain Patients. The tests all state:

- “Not recommended/recommended as a first-line option psychological test in the assessment of chronic pain patients”:
 - BAP-2 (Behavioral Assessment of Pain-2)
 - BBHI 2 (Brief Battery for Health Improvement – 2nd edition)
 - BDI – ii (beck Depression Inventory-2nd edition)
 - BHI 2 (Battery for Health Improvement – 2nd edition)
 - BSI (Brief Symptom Inventory)
 - BSI 18 (Brief Symptom Inventory-18)
 - CES-D (Center for Epidemiological Studies Depression Scale)
 - MBHI (Millon Behavioral Health Inventory)
 - MBMD (Millon Behavioral Medical Diagnostic)
 - MCMI-111 (Millon Clinical Multiaxial Inventory, 3rd edition)
 - Minnesota multiphasic personality inventory (MMPI)
 - MMPI-2 (Minnesota Inventory- 2nd edition)
 - MPI (Multidimensional Pain Inventory)
 - MPQ (McGill Pain Questionnaire)
 - MPQ-SF (McGill Pain Questionnaire – Short Form)
 - Oswestry Disability Questionnaire
 - P-3 (Pain Patient Profile)
 - PAB (Pain Assessment Battery)
 - PAI (Personality Assessment Inventory)
 - PDS (Post Traumatic Stress Diagnostic Scale)
 - PHQ (Patient Health Questionnaire)
 - PPI (Pain Presentation Inventory)
 - PRIME MD (Primary Care Evaluation for Mental Disorders)
 - SCL-90-R (Symptom Checklist -90 Revised)
 - VAS (Visual Analogue Pain Scale)
 - Zung Depression Inventory
- Remove all references in the recommendations to “ODG Guidelines.” The adopted guidelines will be MTUS guidelines and referring to “ODG Guidelines” will result in some potential internal conflicts with other MTUS guidelines (e.g., Acupuncture Guidelines), as well as confusion and disputes over whether or not such language refers to ODG current guidelines. Some examples of procedures with “ODG Guidelines” that need revision:
 - Acupuncture:
 - “ODG Acupuncture Guidelines:
 - Initial trial of 3-4 visits over 2 weeks
 - With evidence of objective functional improvement, total of up to 8-12 visits over 4-6 weeks”
 - Cognitive behavioral therapy (CBT); Cognitive therapy for depression; Cognitive therapy for PTSD; Insomnia treatment; Psychotherapy for MDD (major depressive disorder); and PTSD psychotherapy interventions:
 - “ODG Psychotherapy Guidelines:

- Up to 13-20 visits over 7-20 weeks (individual sessions), if progress is being made.
(The provider should evaluate symptom improvement during the process, so treatment failures can be identified early and alternative treatment strategies can be pursued if appropriate.)
- In cases of severe Major Depression or PTSD, up to 50 sessions if progress is being made.”
- Physical medicine treatment:
“ODG Physical Therapy Guidelines:
Allow for fading of treatment frequency, plus active self-directed home PT..
Any mental condition:
6 visits over 6 weeks.”
- Clarify the recommendations to avoid potential disputes, for example:
 - “Not recommended for...” may be interpreted to mean it is recommended for anything other than what is specified. “Not recommended” will suffice if the procedure is not recommended for any procedure, otherwise exceptions, if any, need to be clearly stated.
 - “Not recommended as a first line option” or “Not recommended as a first-line treatment” does not always indicate for what conditions this applies.
 - “Not recommended for long-term use” may be interpreted by some to mean it is recommended for short-term use or for anything other than long-term use, whereas others may interpret this to mean there is no recommendation other than in the case of long-term use.
 - “Recommend consideration” is not clear. Clarification will help treating and reviewing physicians identify reasonable and necessary care for mental illnesses.

The Institute believes that a Guideline for Mental Illness in the Clinical Topics section of the MTUS and a Guideline on Stress in the Special Topic section of the MTUS can benefit injured employees by providing treating, evaluating and reviewing physicians with guidance on the most effective treatments for mental illnesses, and the best methods to attenuate stress, based on the best available medical evidence.

Sincerely,

Brenda Ramirez, Claims and Medical Director

BR/pm

cc: Christine Baker, DIR Director
George Parisotto, DWC Acting Administrative Director
Dr. Raymond Meister, DWC Interim Executive Medical Director
CWCI Claims Committee
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