

Why Is My Comp So High?

An explanation of the factors driving medical costs in workers' compensation

In New York State workers' compensation, the claimant has the right to choose any treating physician he would like. The treating physician may prescribe any medications or treatment that they would like. Most often, the workers' compensation carrier is required to pay for these treatments and medications.

In 2010, carriers got assistance in the battle against rising medical cost in the form of Medical Treatment Guidelines. Under the new procedures, treating physicians may perform any treatment under \$1,000 without requesting authorization from the carrier. For more expensive treatments, only certain procedures required no pre-authorization if they were included in the guidelines as appropriate for the medical condition. Treatment outside the Guidelines required a request to vary from the standard procedure in treating a specific condition.

The new medical treatments that are being developed to treat common workers' compensation injuries (back injuries, for example) often are denied by the carriers either because they are outside the Medical Treatment Guidelines or because they have not been proven to work to treat the injury they are being proposed to treat. In this case, the final decision often rests with the Workers' Compensation Law Judge: these decisions often are made to allow the claimant to receive the treatment they are requesting.

While the carriers in New York State have seen savings with this new tool to deny excessive treatment, overall inflation of medical costs have impacted the industry dramatically. The rising costs of pharmaceutical drugs is an area of particular concern, as the workers' compensation claimant does not have their prescriptions automatically switched to the generic version at the pharmacy, as occurs in the health insurance arena. If the claimant wants the brand name and the doctor prescribes it, the workers' compensation carrier must pay for it.

Another area of abuse in workers' compensation is narcotic pain medications. While narcotics are intended for short-term treatment of breakthrough pain, many workers' compensation claimants are prescribed these drugs for years, even decades. There is very little opportunity for the carriers to deny, cut off, or wean these drugs. Long-term narcotic use also creates additional problems, including depression, addiction issues, and protracted healing times. This results in claims that are open for longer, costing more in wage replacement benefits and additional medical treatment.

Finally, when an opportunity arises to settle a workers' compensation claim where the claimant is receiving Medicare/Medicaid benefits, the carrier must first get approval from the Center of Medicare/Medicaid Services (CMS), and must designate a portion of settlement dollars as medical benefit. Often, the amounts approved by CMS drive the cost to settle high enough to make settlement unfeasible. This may cause claims to stay open longer and generate more expensive medical costs.

Prepared by

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