

## **MINUTES**

### **KENTUCKY WORKERS' COMPENSATION MEDICAL ADVISORY COMMITTEE**

#### **MEETING August 9, 2018**

A meeting of the Medical Advisory Committee was held on August 9, 2018, beginning at 2:00 p.m., in the Oscar Morgan Conference Room at the Department of Workers' Claims, 657 Chamberlin Avenue, Frankfort, Kentucky.

Commissioner Robert Swisher brought the meeting to order. Committee members present were: Robert Swisher, Ms. Holly Johnson, Dr. Scott Prince, Dr. Chris Stephens, Dr. Richard Broeg and Ms. Jessika Chinn. Commissioner Swisher reported that notice of the meeting had been properly advertised and was being conducted in accordance with the open meetings law pursuant to KRS 61.823(4)(a).

Commissioner Swisher asked the committee if there were any changes to the minutes of the July 19, 2018 meeting. With no changes requested, Ms. Johnson moved that the minutes be approved, seconded by Dr. Prince. All members voted aye and the minutes were approved as written.

Commissioner Swisher introduced the guest speakers from ODG/MCG Health, Kenneth Eichler, vice-president of government affairs; Rod Bordelon, consultant to ODG/MCG Health and former commissioner of the Texas Department of Workers' Compensation; and, participating via telephone, Phil LeFevre, managing director of ODG/MCG. These representatives were present upon invitation to address the committee with respect to ODG Drug Formulary and Treatment Guidelines. Mr. Eichler informed the committee that ODG is a privately owned company and was acquired by MCG Health in 2017. MCG Health is a Hearst Health Company. ODG has 20,000 employees, an annual gross revenue of \$60 billion, and impacts 60 to 70% of the health care decisions made in the country. The guests presented a PowerPoint presentation of ODG/MCG's mission and accomplishments. ODG has developed treatment guides based on evidence-based medicine backed with statistical research. The focus is on patients, not payments. Mr. Eichler stated that unlike other healthcare plans, through workers' compensation, injured workers are entitled to any treatment that can be shown to be related to a work-related injury and is reasonable and necessary to treat that injury. The goal is to do no harm and to improve the quality of care and outcome, and ensure that patients have access to safe, effective treatment while reducing the number of people who misuse or abuse the workers' compensation system. ODG has been adopted in 11 states resulting in a decrease in costs to carriers with quicker treatment times for injured workers.

During a short break in the presentation, Commissioner Swisher reminded attendees that the Regulatory Advisory Committee is working on constructing the procedural framework for implementation of any drug formulary and treatment guidelines adopted by the Department. There will be a joint meeting of the Medical Advisory and

Regulatory Advisory committees on August 30, and the Commissioner hopes to have a rough outline of proposed regulations shortly thereafter.

Mr. Eichler stated that ODG offers turnkey solutions that address specific needs of both patients and medical providers. It has been proven to improve cost containment and lessen the need for MSAs. He presented definitions of evidence-based medicine noting that it includes studies, peer review and published articles as well as incorporating data from PBMs and carriers. In developing treatment guidelines, ODG implements a dual mandate to safeguard and expedite access to quality care and limit excessive or inappropriate utilization, resulting in better treatment and lower costs. ODG's website offers an easily accessible way to access the evidence that is available.

Mr. Bordelon served as Commissioner of the Texas Department of Workers' Compensation when the ODG guidelines were adopted by that state. He stated that there is a third piece to the dual mandate, that of the regulator charged with resolving disputes. By adopting set standards that guide treatment on the front end, it has helped Texas to mitigate issues that have arisen later. With all interested parties, including medical treatment professionals, pharmacists, carriers and utilization review physicians, and regulators looking at the same guidelines, the system becomes uniform across the board. While adopting guidelines does not establish a new standard of care, it minimizes disruption in the treatment process because all parties are guided by the published standards.

Mr. Eichler stated that the drug formulary is also not cost-based but is driven by evidence and best practices. Preferred drugs recommended for specific treatment applies across the board regardless of carriers or employers. He noted that the drug formulary has documented results of getting the injured worker back to functional restoration more quickly, and recommends to medical providers treatment options to avoid unnecessary surgeries or over-prescribing of narcotic medication. The goal is to treat the condition not just mask symptoms. Adopting guidelines also assists in empowering medical providers to expedite treatment by adhering to treatment recommendations, and helps to decrease the adversarial relationship between a patient and the doctor. The guidelines empower the medical provider to "just say no" to excessive treatment when alternative choices are available. Mr. Bordelon stated that in Texas there has been an overall improvement in levels of satisfaction from both medical providers and their patients. Texas has seen an increase in the number of physicians participating in the treatment of workers' compensation patients. He attributed that to the improvement in results when requesting treatment from carriers using the guidelines.

ODG works off the FDA Orange Book: FDA Approved Drug Products with Therapeutic Equivalence Evaluations for assigning a medication as preferred or non-preferred. The ODG website offers an easy way to research a medication and any potential interactions with other drugs. Utilizing the preferred and non-preferred recommendations from the drug formulary helps physicians make quicker decisions on what is appropriate treatment for the patient. The drug formulary also assists the pharmacist in filling the medication without the necessity of considering what a patient's diagnosis may be.

Mr. Eichler reported that 95% of all workers' compensation claims are handled by pharmacy benefit managers. ODG gives these PBMs an advantage through its proven track record of delivering quality and timely information for over 15 years. Mr. LeFevre reported that the information gathered and published by ODG is updated in real time. When MCG was offering to acquire ODG in 2017, Mr. LeFevre reported that MCG was the leader in publishing healthcare guides, with ODG being the leader of workers' compensation guidelines. Merging these two companies increased the ability to rank and weigh medical studies to get the best evidence available for determining treatment recommendations. ODG's website has links to the studies used in determining recommendations, and ranks the research and studies that are considered. The research and studies are not part of nor are they paid for by ODG.

Following a short break, Mr. Eichler and Mr. LeFevre led the committee through a demonstration of the ODG website. They demonstrated how to search for a medication or a physical condition via different methods on the website, and showed the results found. Drugs include information regarding conditions they can be prescribed for. There are links included to show summaries of the literature used when considering medications and treatment guidelines. The rankings of the research are presented as well as codes needed by payors and PBMs. The website includes a calculator for determining morphine equivalents of narcotic medications. Specific conditions include the expected duration, treatment and costs as well as expectations for returning a patient to work. Criteria for approval of treatment is listed. There is an appendix that offers guidance to a medical provider for documenting treatment requests that fall outside the recommendations.

Mr. Eichler stated that ODG has credibility because of its track record and the literature and studies that back up the recommendations.

Drs. Stephens, Johnson and Broeg had questions concerning navigation of the website and its ability to search for specific treatment issues. Dr. Chinn asked how dates and statistics are gathered and implemented, and Dr. Johnson asked if the committee would be able to review the website on their own prior to making a decision. A temporary license will be issued to committee members, and Mr. Eichler added that online training sessions are available to help with navigation of the site. While the drug formulary and treatment guidelines are recommendations for medical providers and regulators, they do not tell one how to implement the guides or resolve disputes. Those decisions are left to the regulators of each state empowered to set the standards for using the guides.

Discussion followed regarding the cost of a subscription. Mr. Eichler noted that the drug formulary is free to the public and can be published on the workers' compensation state website. An individual license to the entire website is \$599 per year with a 50% discount to those in states that have adopted the ODG guidelines, for a cost of \$299.50 per year.

Peter Naake asked how a plaintiff can find out what the treatment guidelines are. Mr. Eichler noted that when a specific treatment is denied through a utilization review, the reviewer is required to cite the guidelines relied upon in making that denial decision. A plaintiff can obtain that information from his medical provider. For a plaintiff or his attorney to know what the guidelines are ahead of that, they would need access to the website via

subscription. He noted that group rates are available and as the number of users rises, the cost comes down.

McKinnley Morgan asked if a state is required to adopt the entire ODG guidelines or if only parts can be adopted. Mr. Eichler stated that it can be adopted in parts but that could cause future problems in updating information, and he did not recommend "piece-mealing" the product.

Eric Lamb stated that there could be conflicting medical treatment or diagnoses from different medical providers, and he had concerns about this slowing down the process of a patient obtaining treatment. This issue would need to be address through implementation of regulations developed by the Regulatory Advisory Committee.

Tim Wilson expressed concerns regarding access to ODG information if it is adopted "as law." Mr. Eichler stated that the general public can contact ODG for help and obtain information. He noted that ODG can be considered as the "WestLaw" or "Lexus-Nexus" of medical evidence, and that access to those entities requires subscription. Mr. Wilson suggested that any party to a claim be afforded free access to the guidelines or that the state pay for a general subscription for any party to litigation. He indicated that a utilization review denial may not cite the correct information relied upon or include all of the cites relevant to the request that has been denied. He asked that adequate due process be afforded to any party involved in litigation.

Dr. Broeg asked if the guidelines have criteria for evaluating acute versus chronic conditions, indicating that some injured workers may require future treatment. Mr. Eichler noted that that information is found in the body of the recommendation of a specific treatment in that it addresses both long term and short term treatment.

Mr. Naake expressed the concern that adopting guidelines may drive away medical practitioners from accepting workers' compensation patients. Mr. Bordelon stated that Texas has seen an increase in the number of physicians accepting workers' compensation patients and attributed that to the ease of finding information and the consistency afforded when implementing recommended standards. Dr. Broeg stated that the guidelines take away the different standards set by insurance carriers, and Dr. Chinn noted that the guidelines are only recommendations, not treatment mandates.

Commissioner Swisher thanked the representatives of ODG/MCG for their presentation. He reminded the attendees that Dr. Snyder from Tennessee will be present at the August 30 meeting which will be a joint meeting of the Regulatory and Medical Advisory Committees. The public is invited to attend.

A motion was made by Dr. Prince to adjourn, seconded by Dr. Stephens. The meeting was adjourned at 5:15 p.m.