

MINUTES

KENTUCKY WORKERS' COMPENSATION MEDICAL ADVISORY COMMITTEE

MEETING SEPTEMBER 27, 2018

A meeting of the Medical Advisory Committee was held on September 27, 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. He 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).

Committee members present were: Robert Swisher, Ms. Holly Johnson, Dr. Chris Stephens, Dr. Richard Broeg, Dr. Jessika Chinn, Dr. Stacie Grossfeld, and Dr. James Bean.

Commissioner Swisher asked for approval of the August 9, 2018 and August 30, 2018 meeting minutes. A motion was made by Dr. Bean, seconded by Ms. Johnson, and the minutes were approved as written.

Commissioner Swisher stated that the focus of this meeting is to allow each committee member a chance to express his or her impression of the drug formulary and treatment guidelines, each member having had the opportunity to review and navigate through the ACOEM and ODG websites and literature. Commissioner Swisher expressed the desire to hear each committee member's opinion, although he has the duty to make the final decision of which formulary to adopt. He also reported that he will make a recommendation to the Secretary of Labor to establish a standing Medical Advisory Committee that will meet three or four times a year. He anticipates that this committee will be comprised of not only medical providers, but a much more diverse group of stakeholders across the workers' compensation industry. The purpose will be to review the guidelines and their implementation, to review and develop updates as needed. He acknowledged that this is an ongoing process that does not stop with the adoption of any one set of guidelines. He indicated that if any of the current MAC members desire to serve on such a committee, he would be happy to recommend them.

Commissioner Swisher noted that the Regulatory Advisory Committee has been working on developing implementation guidelines but they are waiting for decisions from this committee for finalizing their work. The RAC is developing procedures based on the presumption that recommended treatment is medically reasonable and pre-authorization is not required. They are also developing a system to expedite the reconsideration process when denials are made. He expects that conferences on a peer-to-peer basis will be required within a short period following a request for reconsideration. The goal is to get answers quickly and continue the process of treating the injured worker in an effort to return him or her to work.

Once regulations are proposed by the RAC, they will be posted on the DWC website and will go through a public hearing process. All members of the committee, as well as the public, will have the chance to make comments and suggestions on these proposed regulations.

Commissioner Swisher noted that Medtronics had submitted its recommendations for adopting guidelines, and he handed a copy to each committee member. ACOEM had also prepared a handout of slides and information regarding its formulary. The Commissioner stated that anyone else may submit written materials by the close of business on October 2, 2018, in order to be considered prior to a determination being made. He then asked the committee members to individually report their findings and impressions on the websites reviewed.

Dr. Stephens stated that the state does not have the time nor the manpower to develop its own drug formulary and treatment guidelines. All committee members agreed. He reviewed the ACOEM and ODG websites with his medical partners looking mainly at spinal conditions. He felt both websites were easy to understand and navigate, and were very similar in diagnoses and treatment recommendations. The drug formularies were also similar in classes and uses of medications. He believes that adopting treatment guidelines and a drug formulary will be helpful to medical providers, as he now has a better understanding of what is required in order to obtain approval of recommended treatment for his patients. He believes the overall process will be greatly improved. He slightly favored the ODG guidelines because they are more widely adopted across the country, and particularly are used in this area of West Virginia, Virginia and Ohio. He believes that everyone using the same guidelines will be more useful, and he acknowledged that both ACOEM and ODG meet the needed criteria.

Dr. Broeg steered his research of the websites to non-surgical spinal treatment. He agreed with Dr. Stephens' assessment. He had also called the staff of each provider and felt that ODG was more helpful in answering his questions. He feels that the ACOEM website is a little easier to navigate, but they were very close and equal insofar as what they offer. He rated the ACOEM site at 8 and the ODG site at 7. He stated that he practices in northern Kentucky and sees patients from Ohio and Indiana as well, with both states having adopted ODG guidelines. He noted that reconsideration reviewers were many times from out of state, and most use the ODG guidelines in making their determinations regarding treatment. Dr. Broeg has also performed utilization reviews for over 30 years and is very familiar with the process. For these reasons, he chose ODG as his choice because it is more widely used. He also had obtained a printout from the ACOEM website regarding back strains/sprains, and read some of the recommendations to the committee regarding treatment. He felt that chiropractors were not sufficiently represented in treatment options. There was some discussion that chiropractors would fall under the umbrella of a multi-disciplinary medical team, but he felt that if they are not specifically mentioned appropriately and often enough, they would be left out when reconsiderations were performed. He believes the reviewing physician would deny chiropractic treatment based on the lack of recommendations found in the ACOEM guides. He felt ACOEM showed a negative bias towards chiropractic treatment, as none of its literature included chiropractic sources. He also had researched the practices of ACOEM

staff and did not find any chiropractors on it nor did their advisory committee include chiropractors. For these reasons, he chose ODG as his preferred guidelines.

Ms. Johnson stated that she had looked at many different treatment recommendations with respect to physical therapy, and because there was such a large amount of literature to review, had formed a subcommittee with her co-workers who had reviewed treatment recommendations for hands, shoulders, knees, neck and back. They found that both guidelines were behind in physical therapy research. She believes that the physical therapy community will need to perform training regardless of which system is adopted. She felt that neither of the guidelines were ideal, noting that crush injuries are not covered well with respect to recommending physical therapy. She expressed concern about interruption of care when treatment is denied and must go through reconsideration. She also expressed her continued concerns regarding use of narcotic medications. She was in favor of the committee continuing to meet to updates can be developed as needed. She stated that if she had to choose, she would choose ODG but some of the members of her subcommittee had expressed a preference for ACOEM.

Dr. Chinn expressed agreement with the comments already made by other committee members. She felt both websites were easy to navigate. She leaned her preference to ODG, although agreed that neither system was perfect.

Dr. Grossfeld stated that she uses ODG now in her practice when treatment has been denied, and she has experienced frustration in the process. She specializes in shoulder and knee surgeries, and felt that the ODG guidelines placed the treating physician "in a box", and it was difficult to get out of when a strict following of the guidelines was required. She expressed a desire to implement exceptions when the treating physician did not agree with the guidelines. From an orthopedic perspective, she felt ACOEM better addressed treatment needs by offering more categories and treatment options.

Dr. Bean stated that initially he did not see much difference in either system. He is a surgeon and has also personally undergone spinal surgeries, so he has experienced the process from both sides. He stated that had his treating physician been required to strictly follow recommended guidelines, he would not have qualified for the spinal surgeries he had undergone. He gave examples of recommendations for being off work and attending physical therapy before surgery could be approved, and noted that there are times when a treating physician knows that the patient will not improve with these recommended treatments. He also expressed a desire for flexibility in getting exceptions approved. He stated that both ACOEM and ODG are prescriptive, and that is not always what is needed. He did feel that ACOEM afforded more flexibility in treatment options.

Dr. Grossfeld again expressed her opinion that ODG places the treating physician in a box. Dr. Bean stated that in order to strictly follow the guidelines, a physician would be required to "make up stuff" in order to get his recommendations approved. With regard to a drug formulary, Dr. Bean felt that ACOEM was more evidence-based than ODG.

Dr. Grossfeld stated that that goal is to correctly diagnose a patient, get him properly treated so he can get better and return to work. ODG requires that a patient go

through therapy and other treatment that may not be required and may not work. She felt that ODG ties the treating physician's hands with respect to meeting a patient's treatment needs. These causes the entire process to be slowed down.

Commissioner Swisher stated that the RAC's efforts in developing an expedited process would help to keep the treatment process moving along. The committee members agreed that the ability to make decisions "outside the box" or outside the treatment guidelines is needed, and that professional clinical judgment cannot be read out of anything. Dr. Chinn stated that the guidelines are there as a guide only, and should not be treated as strict rules. Commissioner Swisher stated that when reconsideration is needed, the treating physician will need be available for consultation with the reviewer in a timely fashion in order to have the process work smoothly. He stated that adopting guidelines is the starting point, and additional processes will need to be developed as the needs arise.

Dr. Bean noted that the discussion had been 95% along the lines of adopting treatment guidelines as opposed to a drug formulary, but it is very difficult to separate the two. Commissioner Swisher felt that implementing a standing Medical Advisory Committee would help address these issues, and noted that adopting guidelines is not something that is set in stone and can be changed in the future if the need arises.

Commissioner Swisher indicated that he would weigh all the comments made today and work with the Regulatory Advisory Committee in addressing issues expressed. All committee members agreed that a commercial developer was needed to get this system to work properly, keep it updated and offer proper training to medical providers who will be required to work within this system. Commissioner Swisher stated that he would notify the committee members within 7 to 10 days regarding whether another meeting would be needed. The committee members expressed a desire to attend the next Regulatory Advisory Committee meeting, and Commissioner Swisher agreed to notify them of the date and time of that meeting.,

A motion was made by Dr. Bean, seconded by Dr. Stephens to adjourn. The meeting was adjourned at 3:10 p.m.