

MINUTES

KENTUCKY WORKERS' COMPENSATION JOINT MEETING OF THE REGULATORY ADVISORY COMMITTEE AND MEDICAL ADVISORY COMMITTEE

**MEETING
AUGUST 30, 2018**

A joint meeting of the Regulatory Advisory Committee (RAC) and the Medical Advisory Committee (MAC) was held on August 30, 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 called the meeting to order. The following members from the RAC were present: Douglas W. Gott, Chief Administrative Law Judge; John B. Coleman, Administrative Law Judge; Chris Davis, Administrative Law Judge; Dale Hamblin, Assistant General Counsel; Peter Naake, Esq.; Timothy Feld, Esq.; and Scott M. Miller, Esq. In attendance from the MAC were Robert Swisher, Commissioner of the Kentucky Department of Workers' Claims; Christopher Stephens, M.D.; James Bean, M.D.; Richard Broeg, D.C.; Stacie Grossfeld, M.D.; Scott Prince, M.D.; Holly Johnson, PT, DPT; Jessika Chinn, Pharm.D.; and Danesh Mazloomdoost, M.D. who participated by telephone. Commissioner Swisher noted that the meeting was held in accordance with KRS 61.823(4)(a), the Open Meetings statute, and that notice of the meeting was published as required.

Commissioner Swisher asked the committee members to introduce themselves. Following short introductions from each member, Commissioner Swisher introduced Dr. Robert Snyder, Medical Director of the Tennessee Bureau of Workers' Compensation. Dr. Snyder addressed the joint committees along with a PowerPoint presentation of the experience the state of Tennessee had when developing and adopting its drug formulary and treatment guidelines in 2016. Tennessee adopted its treatment guidelines after a comprehensive study was performed by a committee. Dr. Snyder identified criteria was used and the implementation barriers they met during the process. He noted barriers to be access to information, user friendliness of the electronic system, complaints that the formulary and guidelines placed injuries and treatment recommendation in a "cookbook" form, and educating and communicating with the stakeholders affected by the adoption of guidelines. He noted that treatment guidelines are to be used in conjunction with the patient and physician discussion in choosing the best option for a particular individual, and to provide both the patient and physician with the most up-to-date evidence-based recommendations and advice. By adopting guidelines, Dr. Snyder noted that the goals included that the recommendations be evidence-based, they help improve the quality of treatment, provide cost reductions, prevent duplication of services, provide consistent transparent standards or benchmarks to all interested parties, be able to track outcomes, and increase the speed in obtaining approvals for treatment. The guidelines are not to be used as a primary method for

denial of service or payment, and Dr. Snyder noted that guidelines are recommendations, not mandates for treatment. Consistent guidelines help office staff, schedulers and specialists with the assumption being that the recommended treatment is medically necessary, thereby avoiding the need for utilization review in many cases. Dr. Snyder stated that while most doctors already participate in best practice methods, the adoption of treatment guidelines made those practices uniform. He estimated that learning to navigate the website in looking up the guidelines takes less than four hours, noting that training office staff is very important in successful implementation. Proper documentation by physicians is critical in successfully avoiding utilization review.

Dr. Snyder presented a list of decisions considered during the development Tennessee's guidelines. These included whether they would be comprehensive or "piecemeal", single or multiple, public or proprietary, with or without a drug formulary, with or without exceptions and presumptions for utilization review, the ability to revise and update the guidelines, the ability to educate and communicate with outside users, and the handling of appeals and disputes.

During the development of the guidelines, the state of Tennessee looked at other states to help guide the process. Dr. Snyder presented an overview of six other states that have gone through the process of adopting treatment guidelines, and the differences in how those states approached this issue. They include the states of Washington, Colorado, New York, California, Ohio and Montana. He also noted the two proprietary guidelines available for adoption, MDGuidelines ACOEM/Reed Group and ODG by MCG. He presented a brief outline of the differences in these two companies' products. The state of Tennessee adopted ODG guidelines. Dr. Snyder noted this decision was reached for several reasons, including that the Tennessee Bureau of Workers' Compensation does not have the resources to develop or maintain its own guidelines, and ODG is used by 75% of reviewing physicians across the country. Tennessee continues to educate and update groups across the state but Dr. Snyder noted that there are still many, including medical providers that are unaware that guidelines have been adopted. There has been some resistance to the guidelines from physicians who object to the "cookbook" concept or any "bureaucrat telling [them] how to practice [medicine]." He did state that ODG has been very receptive and responsive to suggestions for updates and practice changes.

Dr. Snyder was asked about any savings the state has experienced since implementing the guidelines. He stated that the costs associated with obtaining prior approval for treatment has been cut by 50%, and the cost of compounds and topicals has been noticeably reduced. He did not have statistics on the overall cost reduction to Tennessee's system. Criteria for legacy prescriptions was discussed as well as steps for obtaining prior approval. He noted that prior approval is generally handled by the pharmacy benefit manager and can take anywhere from four hours to three days to obtain, while utilization review has an approximate 10-day timeframe.

Ken Eichler stated that ODG gives steps to how to get exceptions approved noting that cost is not the driving factor in determining treatment, but rather expediting access to care and improving the overall treatment for the injured worker.

Dr. Snyder reported that Tennessee also adopted the ODG drug formulary. He presented a definition for legacy medications and first fill requirements. He noted that the difficulty with legacy cases is that neither the physician nor the patient really wants to change the current treatment regime. The first fill rules were developed for urgent medical situations and is primarily for the protection of the pharmacy to be paid when dispensing medication.

Rosalie Faris noted that the first line of review in Tennessee is different than that of Kentucky. Tennessee has a medical director making decision outside of the court system. Discussion followed regarding the requirements for making decisions and handling disputes and appeals.

Dr. Snyder concluded his presentation noting that the goal is to get the right treatment at the right time for the right condition to an injured worker with an ultimate goal of returning that injured worker to work and to health.

Commissioner Swisher stated that the Medical Advisory Group has now heard from both ACOEM and ODG as well as the presentation from Dr. Snyder on Tennessee's experience in adopting treatment guidelines. He indicated that the MAC will meet in mid- to late September to have focused discussion regarding options.

Dr. Broeg asked for an extension of time to review both the ACOEM and ODG websites, and Commissioner Swisher stated he would make that request for all of the committee members.

With all business concluded, a motion to adjourn was made by Dr. Johnson and seconded by Dr. Stephens. The meeting was adjourned at 3:45 p.m.