

Senate Bill 863: Implementing the Reforms

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Benefits

Permanent Disability

Permanent Disability

Permanent Disability (§4660 & 4660.1)

Purpose: improve uniformity, consistency & objectivity of PD evals & eliminate questionable claims of disability

Effective Dates: PD rate changes apply in 2 stages:

- ⦿ 1st increase -- injuries o/a 1/1/13
- ⦿ 2nd increase -- injuries o/a 1/1/14

PD

AMA Guides 5th Edition §4660.1(c)

Certain elements are eliminated:

- Sleep disturbance
- Sexual dysfunction
- Psych disorder asserted later as add-on to physical injury
 - exception: victims of violent act or catastrophic injury
- ER remains liable for treating these conditions

PD

Issues

- PD % is prima facie evidence of disability, what addtl evidence is relevant?
- Is LeBoeuf-type analysis permitted under §4660.1?
- Must ER advance PD if IW's employment situation changes before the award?
- For psych disorders related to physical injury, what constitutes "violent act" or "catastrophic injury"?
- Will 2005 PDRS be used to rate pure psych injury?

Medical Utilization & Disputes

Independent Medical Review

Independent Medical Review

Purpose

- To resolve UR disputes more efficiently using an independent medical review (IMR) program instead of the WCAB
- IMR is effective for UR disputes over treatment for injuries
 - w DOIs o/a 1/1/13
 - w any DOI for UR decisions communicated to requesting physician o/a 7/1/13

IMR

Scope of IMR §§4610.6(a), 4061, 4062(b)(c), 4062.2(f)

- Limited to disputes over
 - medical necessity &
 - diagnosis & recommendations by MPN physicians

IMR

- Regs:
 - IMR request form
 - Notice requirements
 - AD may develop IMRO conflict-of-interest regs

IMR

Issues:

- ◉ “Reasons other than medical necessity” are not defined
- ◉ Do disputes not subject to UR (P&S, causation, new & further, etc) prevent/defer IMR until other issues are resolved?
- ◉ ERs must still pay for M-L evals on “other issues”

IMR

Issues (cont.):

- ◉ MPN 2nd & 3rd opinions were seldom requested under existing law. How often will IMR be used for MPN disputes subject to IMR?
- ◉ Does DWC have resources to monitor IMROs & their reviewers?
- ◉ Remands & IMRO re-referrals after appeal will add to ER costs
- ◉ Will IMR yield better care, earlier resolutions & savings as intended?

Medical Fee Schedules

RBRVS
ASC
IHFS surgical hardware
Home Health Care
Copy Services
Interpreter

Resource Based Relative Value Scale

Purpose

- Align with medical industry standards
- Facilitate routine updates to codes & fees
- Reduce perverse financial incentives

RBRVS

§5307.1(k)

Current physician schedule remains in effect until 1/1/14:

- except for AD revisions

RBRVS

§5307.1(a)(2)(A)&(B)

AD shall adopt RBRVS-based maximum FS:

- for physician & practitioner services
- cap at 120% of Medicare's 7/1/12 fees
- transition over 4 years
- include non-Medicare ground rules
- update annually

RBRVS

Process

- ◉ Regulation not required for automatic transition to Medicare FS & rules
- ◉ Reg changes are necessary for the AD to adopt & transition to an RBRVS-based FS

Ambulatory Surgical Center

Purpose

- ◉ To lower ASC fee allowances

ASC

§5307.1

- ◉ Max ASC facility fees reduce from 120% to 80% of Medicare hospital outpatient department fees
- ◉ DIR shall submit to the Legislature by 7/1/13 a feasibility study on
 - allowing ASCs 85% of Medicare DRG fees for services now restricted to hospital inpatient depts

ASC

Process

- Effective w/o regulatory action for ASC services provided on and after 1/1/13
- Existing FS regs need to be updated

IHFS -- Surgical Hardware

Purpose

To eliminate duplicate reimbursement for surgical hardware

IHFS -- Surgical Hardware

§5318

- This section that required duplicate payment for surgical hardware implanted during certain spinal surgeries is repealed on 1/1/13

IHFS -- Surgical Hardware

§5307.1(m)

- For certain spinal DRGs, AD must adopt a reg:
 - specifying sufficient additional fees to cover aggregate costs, including surgical hardware
 - repealed on 1/1/14 unless AD extends

Interpreter

Purpose

Reduce litigation over interpreter fees, services & associated expenses

Interpreter

§4600(g)

- If ee can't effectively communicate w txing physician
 - ee is entitled to qualified interpreter services at tx visits
 - AD shall adopt a qualified interpreter FS
 - ER required to pay interpreter services upon ee's request if
 - interpreter is certified (*not provisionally certified by provider*) or
 - language is undesignated or
 - ER preauthorizes interpreter

Interpreter

Process

Regs are necessary to implement the FS & other provisions

Issues

- Who is responsible for payment if an employee makes no request or
- interpreter services for a designated language are provided by a non-authorized, non-certified interpreter?

Medical Payment & Disputes

Independent Bill Review

Independent Bill Review

Purpose

- To resolve bill review disputes more efficiently using an independent bill review program (IBR) instead of the WCAB
- IBR is effective for injuries o/a 1/1/13

IBR

Process

- AD must establish IRO contracts & any addtl reqmts;
- May designate DMHC's IRO to conduct reviews, enter into interagency agreement to implement IBR on 1/1/13, & contract w DMHC-contracted IROs until 1/1/15
- AD must adopt regulations regarding IBR fees & procedures, IBR determinations, & an IBR request form

Other Disputes

Liens

Liens

Purpose: To reduce lien filings through IMR & IBR

Effective: 1/1/13 for all dates of injury

Liens

Filing Requirements

- Lien must be filed electronically
- All liens filed o/a 1/1/13 must pay a \$150 filing fee
- An inappropriate lien will be dismissed without return of the filing fee

Liens

Lien Activation Fee §4903.06

- For each lien or cost submitted as a lien filed prior to 1/1/13, lien claimant must pay activation fee of \$100
- Lien claimant must include proof of payment of the filing fee with any DOR
- Failure to pay the fee before 1/1/14 will result in a dismissal by operation of law

Liens

Statute of Limitations §4903.5

- Effective 1/1/13, a lien shall not be filed after 3 years from the date the services were provided or
- 18 months from the date the services were provided, if the services were provided on or after July 1, 2013

Liens

Issues

- ⦿ Are the lien filing fees constitutional?
- ⦿ Are liens that had been assigned to a collection agency subject to these fees & procedures after 1/1/13?
- ⦿ Are the fees and procedures applicable to each lien for each provider?

Other Issues

IBR
MPN
Collective Bargaining
RTW Supplement
SJDB
Medical Treatment
Vocational Expert
