

Casualty Loss Reserve Seminar

Denver
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No Fault: Concept versus Reality

Jennifer Kubit, FCAS, MAAA
Progressive Corporation




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New York – No Fault

- ▶ No Fault coverage
 - Threshold –
 - Verbal – death, dismemberment, significant disfigurement;
 - loss of organ or bodily function,
 - inability to perform material acts for at least 90 of 180 days following accident
 - Medical – \$50,000 overall limit on 1st party Benefits
 - Workers' Compensation Medical Fee Schedule
 - Wage Loss – 80% up to \$2,000/month for 3 years
 - Replacement Services – \$25/day for 1 year
 - Survivor's Benefit – \$2,000 in addition to economic



New York – No Fault

- ▶ Insurance Research Council (IRC)
 - A Division of the American Institute for Chartered Property and Casualty Underwriters
- ▶ The IRC completed a study of more than 4,500 claims closed in a 2 week period in the second half of 2010
- ▶ Companies that participated in the study included
 - Allstate
 - Electric Ins
 - Nationwide
 - USAA
 - Ameriprise
 - GEICO
 - Progressive
 - Amica
 - Liberty Mutual
 - State Farm

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New York – No Fault

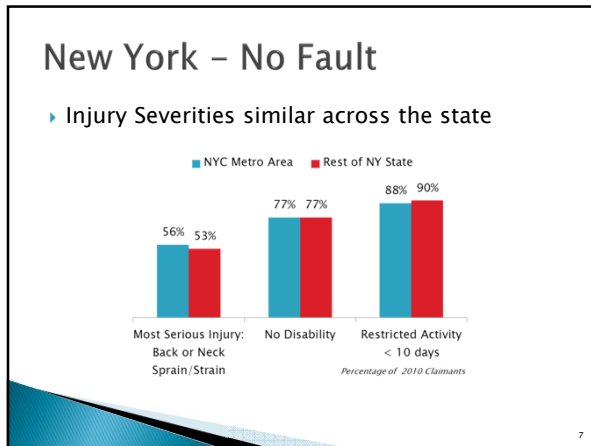
- ▶ Average amount Paid for PIP increased 52% from 2005 to 2010, 8.7% annually – (Fast Track data)
- ▶ Countrywide Severity grew 25% for PIP
- ▶ Overall Medical Care costs, 20% – (CPI for Medical care)

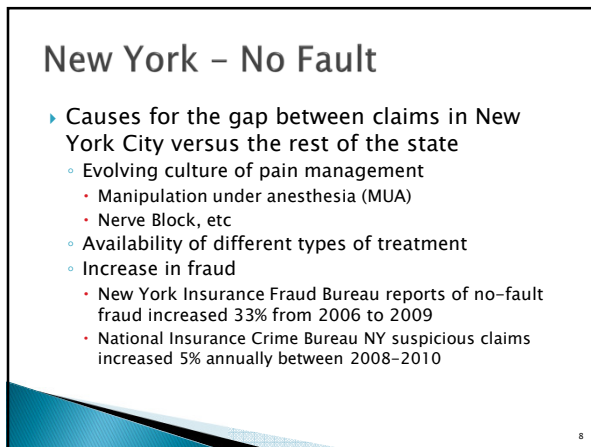
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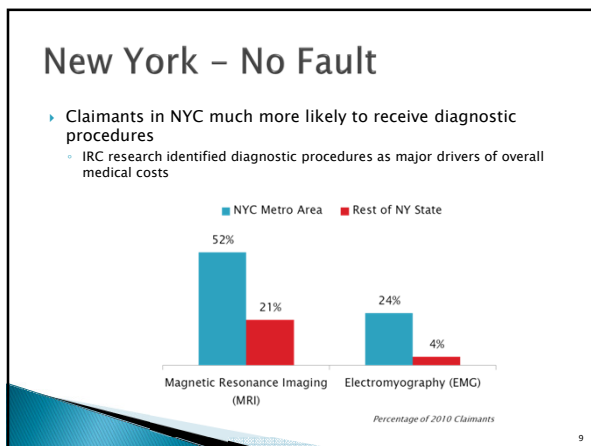
New York – No Fault

- ▶ Key cost drivers
 - Increased utilization of Medical care
 - seeing more doctors/vendors and more often
 - More diagnostic procedures
 - More durable medical equipment
- ▶ Study found evidence of litigiousness and pervasive overbilling among medical providers
 - DCC as % of Premium has grown significantly (NAIC)
- ▶ Patterns of behavior are not seen uniformly statewide

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New York – No Fault

- ▶ Different medical treatment providers used more often in NYC
- ▶ 44% of NYC Claimants visited 4+ providers vs. 14% in the rest of state.

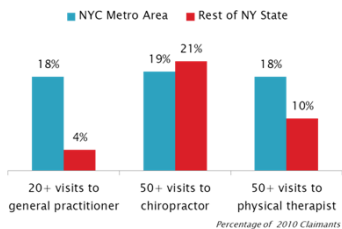
	NYC Metro Area	Rest of NY State
Chiropractor	49%	20%
Physical therapist	42%	18%
Acupuncturist	40%	6%
General practitioner/internist	34%	29%
Orthopedist	27%	19%
Diagnostic cardiologist	24%	15%
Physiatrist (pain specialist)	23%	8%
Neurologist	15%	7%
Psychotherapist	10%	1%

Percentage of 2010 Claimants

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New York – No Fault

- ▶ NYC Claimants visit the same type of provider more often
- ▶ The number of visits increased in 2010 vs. 2007 study
 - 50+ visits to chiropractor increased 5 points in both regions



Percentage of 2010 Claimants

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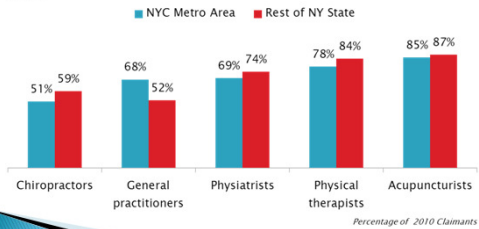
New York – No Fault

- ▶ Some Medical Providers submit charges in excess of the established medical fee schedule -- Despite regulations prohibiting the practice
- ▶ Insurers must routinely adjust payments to reflect allowable fees
- ▶ Providers have incentives to overbill
 - To occasionally avoid the attention of medical bill reviewers
 - To increase a litigated settlement.
- ▶ Costs insurers incur to review and adjust medical bills is considerable. Adjusters cannot just pay charges.

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New York – No Fault

- ▶ Majority of providers submitted at least one charge in excess of the applicable fee schedule
- ▶ Surprisingly, this behavior is more common in the rest of NY state



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New York – No Fault

- ▶ Durable medical equipment (DME) has emerged as a significant item in New York's no-fault system
 - Claimants reporting expenses for DME
 - 30% for NYC area vs. 7% for upstate
 - Medium # of items – NYC claimants 6 versus 2 in the rest of the state
 - Examples – electrical muscle stimulation (EMS) units, transcutaneous electrical nerve stimulators (TENS) units, etc

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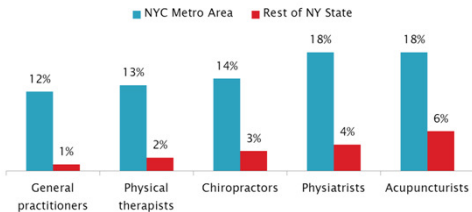
New York – No Fault

- ▶ Pain clinics, or multidisciplinary facilities other than hospitals, are a growing presence in auto injury systems countrywide (generally PIP States).
- ▶ The facilities allow claimants to receive treatment from many different types of providers under one roof.
- ▶ Convenient for claimants, but are often associated with high dollar claims
- ▶ Claimants treated in multidisciplinary facilities (pain clinics, etc.)
 - 44% in New York city area versus 12% upstate.

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New York – No Fault

- ▶ 53% of NYC claimants have attorney representation vs. 25% in the rest of the state → significantly higher claimed losses
 - Less than 5% of claimants file lawsuits statewide
- ▶ An emerging issue is medical providers hiring attorneys
 - Almost all result in a filed lawsuit



Percentage of 2010 Claimants 16

New York – No Fault

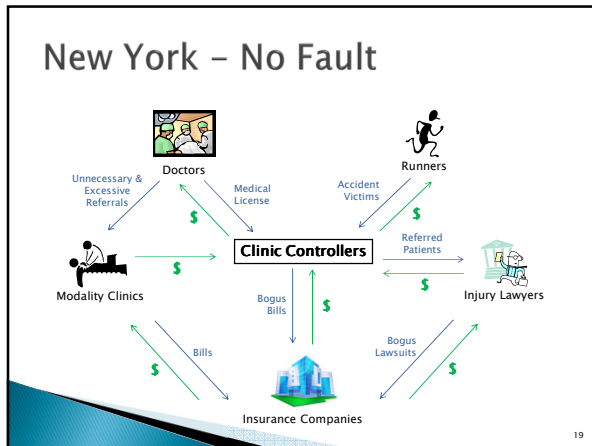
- ▶ NYC claims have more fraud and/or "buildup"
 - 35% vs. 8% in the rest of state for 2010 paid claims
 - NYC increased 6 points vs. 2007 paid claim ratio
 - Rest of State ratio remained flat
- ▶ Fraud if any of the following are present
 - Staged/Caused accidents
 - Unrelated injuries
 - Duplicate bills for the same treatment
- ▶ "Buildup" if any of the following were inflated
 - Medical expenses
 - Lost wages
 - Other expenses
- ▶ Paid because insufficient evidence to prove fraud/buildup

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New York – No Fault

- ▶ Feb. 29, 2012 – 36 arrested in NYC on federal charges of participating in \$279M No Fault fraud scheme
 - Largest single no-fault automobile insurance fraud ever charged
 - Includes 10 doctors and 3 attorneys
 - Operated from at least 2007 until 2012

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New York – No Fault

- ▶ Nine days later NY Governor Cuomo announced a new Insurance Regulation
 - Enables the Dept. of Financial Services (DFS) to ban doctors who engage in fraud from participating in the no-fault system.
 - If a DFS hearing finds the doctor violated the law, then the medical license may be revoked.
 - 135 medical providers have already been identified

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New York – No Fault

- ▶ May 1, 2012 NY DFS Supt. Lawsby announced no-fault regulatory reforms to close loopholes.
 - Ends requirements that mandate insurers pay for treatments that were never actually provided, or pay more than the established fee schedule for a given service
 - Prevents healthcare providers from ignoring requests for evidence that the treatments they are providing are medically necessary by setting a 120-day deadline to provide requested information
 - Closes the loophole that allows courts and arbitrators to force insurers to pay fraudulent claims simply because the insurer made minor paperwork errors when processing a claim.

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New York – No Fault

▶ Challenges for the Insurers

- Pricing
 - for the increasing severity
 - for Fraud
 - for the considerable time and expense devoted to reviewing and re-pricing medical bills – these costs are considerable and not included in the loss data.
 - This work of review and re-pricing poses considerable risk and cost in the form of medical provider litigation.
- Adjusting claims
 - When do you order IMEs? Peer reviews?
 - How large a bill or expense should be challenged?
 - Which disputes do you research and how much?

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