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Workers' Compensation Reform

The American College of Occupational and Environmental Medicine (ACOEM), representing over 6,000 physicians, is the world's largest medical society committed to promoting and protecting the health, safety, productivity and well-being of people at work and in their environment. The field of occupational and environmental medicine has become increasingly important in recent years. Communities, employees and employers are in need of qualified medical professionals to provide them with evidence-based, efficient and effective prevention and medical practice to manage ill or injured workers. ACOEM has met this need. Its specialists work to protect and restore the health of workers.

Status of Workers' Compensation in the United States

Various federal and state health care reform proposals have addressed workers' compensation as well as non-occupational medical care. Workers' compensation systems are clearly in need of reform. But without careful consideration, the cure could be worse than the disease. Workers' compensation as it is presently designed has unique dynamics and interrelationships that may be adversely affected by some current proposals, in particular those which would separate medical care from disability management, and utilize practitioners without specific knowledge of the workplace or injured workers.

The costs associated with occupational illness and injury have escalated significantly in the last decade. Medical costs have risen at double digit rates, significantly exceeding the medical inflation rate for non-occupational medical care. The rate of lost work days has risen steadily since the mid-1980s, with a proportionate increase in wage replacement costs. Yet only a third of the total workers' compensation costs accrue to the benefit of ill or injured workers. Furthermore, there is increasing evidence that much of the medical treatment and absence from work may be unnecessary, with wide variation among providers, locations, employers, and administrators.

Employees and federal workers in all states and territories are covered by workers' compensation programs. However, the systems vary widely in benefits, mechanics, regulations and case law, making administration complex and expensive. Further, what was designed as a no-fault system has become litigious. These adversarial relationships tend to greatly increase the costs and reduce the quality of the health and work ability outcomes.

Without the application of specific expertise and information management to determine, disseminate, provide incentive and improve practices, this situation is likely to grow steadily worse. Also, as the workforce ages and requirements for the accommodation of disabled workers grow, employers could face further difficulties if the state of disability management is not improved. Occupational physicians are in a unique position to manage the ill or injured worker and to advance the knowledge base in these areas, where information is presently sorely lacking.

ACOEM Position

ACOEM advocates the continuous improvement of the quality of health services and management of ill or injured workers. The College is concerned about suboptimal care and the excessive resources used for activities that do not benefit the worker or the employer. ACOEM therefore supports reform efforts that would make worksites safer and apply the needed expertise and systems of care to restore workers to health and gainful activity as efficiently and effectively as possible. Specifically, the College supports passage of reform legislation that addresses the following issues:

Safer workplaces

One of the original intents of workers' compensation was to motivate employers to make worksites safer. According to available labor economics literature, this has not occurred. Further, blurring the relationship between costs for occupational illness and injury and prevention efforts by pooling medical care may damage prevention efforts. Any reform plan should contain incentives to document hazards and actively prevent illness and injury at the worksite, including correction of managerial conditions or practices that adversely affect health or encourage filing of claims. Prevention should be included in all clinical practice guidelines.

Management of medical care and disability

Managed care has become the norm for non-occupational illness and injury, reducing inappropriate care and variance in practice and saving substantial amounts of money in the process. Managing disability in a structured way can reduce inappropriate absence from work and benefit both workers and employers. However, many workers' compensation statutes and regulations contain provisions that constrain the active management of medical care or disability. Any reform effort should enable rather than constrain the use of managed care techniques that improve quality and control costs. Such techniques should include, for example, use of networks of high quality, low cost providers with appropriate expertise; fee and charge negotiation and contracting; development and implementation of evidence and complaint/diagnosis-based practice guidelines for occupational disorders; negotiation and use of modified duty; skills based evaluations; and review of bills and practice patterns.

Integration of medical and disability management

ACOEM believes that severing the relationship between medical care and disability, and specifically the integrated management of medical diagnosis and treatment with absence from work, could well have a significant adverse effect on both areas. In practice, closer integration has reduced the use of medical resources, time off the job, and overall costs. Unless compelling evidence to the contrary is available, ACOEM recommends that medical and disability management become more rather than less integrated. In most cases, this would involve control of or significant involvement with the management effort by the employer rather than a third party. A close relationship between the employer and treating or managing physicians is also needed for prompt return to work and compliance with the Americans with Disabilities Act.

Use of occupational medicine expertise

Knowledge is needed about working conditions and their effects, incentives and nonincentives for absence from work, appropriate diagnosis and treatment of non-specific musculoskeletal disorders, appropriate vocational rehabilitation, reintegration into the workplace, and cost drivers, to successfully manage occupational illness and injury. Occupational physicians are trained and have the best experience base to primarily manage most work-related health problems. However, many medical organizations do not employ occupational physicians. Training programs need to be modified in both the current and reformed scenarios, as there is a shortage of properly trained occupational physicians. Further, most generalist and specialist physicians do not possess this knowledge base and experience. ACOEM recommends that in any reform plan, occupational medicine be designated as a primary care specialty, as it now is in the Public Health Services Act. In addition, occupational medicine training should be significantly enhanced, both for occupational medicine physicians and for any physician or health practitioner who would care for or manage work-related illness and injury. Finally, health plans and managed care organizations should ensure that the appropriate occupational medicine expertise is available to provide the best care for ill or injured workers, regardless of delivery model.

Integration of services

Occupational physicians have been able to successfully integrate preventive efforts, including medical surveillance, sentinel event monitoring, and hazard exposure monitoring, with medical care and management of the return-to-work process, making the integrated process more efficient and cost effective. Further integration of prevention of personal illnesses and injuries can also benefit all parties concerned by improving productivity and better managing benefits costs. ACOEM recommends that any reform effort recognize and reward the creation and successful management of integrated worksite programs to prevent, treat, and rehabilitate occupational illness and injury. Further integration of health promotion and non-occupational disease prevention can further enhance the benefits of such efforts.

Causation of illness or injury

Determining the cause of illness or injury is often placed in the hands of such personnel as claims adjusters who are not medically sophisticated. In addition, many state laws do not accept known relationships between exposure and disease; bar some claims based on statutes of limitation when there is a long latency period; or rely on lists of acceptable causation. Further, medical judgment of the relationship between apparently causative events and disease or injury is not often made or relied on, resulting in coverage of claims that are clearly not based on physiologically valid cause and effect. On the other hand, personal opinion of health professionals is often accepted in lieu of scientific evidence or logic. ACOEM recommends that, as long as workers' compensation is a separate system from non-occupational medical benefits, determination of causation be a recognized area for knowledgeable occupational physicians, using scientific methods when acceptable evidence is available. Reform of state and federal workers' compensation systems should include statutory reform that removes barriers to this effort, and insurance organizations and the courts should be encouraged to rely on the scientific method for judgements about work-relatedness and causality.

Administrative simplification

The existence of widely varying benefits schedules, rules, methods of provider choice, and legal remedies and systems has created a significant cost burden and confusion for multistate employers and workers who change locations. It has also created a legal tangle that often has little to do with the restoration of health and the ability to work. A good deal of testing and treatment is done to create "evidence" rather than to benefit the ill or injured worker. Absence from work is used in a similar way. ACOEM recommends that reform efforts simplify and create coherent benefits and procedures across jurisdictions. Federalization of workers' compensation is one way to do this. Adoption of uniform benefits and regulations, as recommended by NAIC, is another approach. Pre-emption, similar to ERISA, for multi-state employers is yet a third approach. The over-arching goal is to return the focus to care of the injured worker and reduce the total cost and confusion of administration.

Remedying the adversarial nature of the current systems

The current system in all jurisdictions, far from being no-fault, is often adversarial. This may reflect the nature of the work relationship, poor communication, fraud, enthusiastic attorneys, or other issues. In any event, adversarial conduct and administration consume the majority of funds spent on workers' compensation and often prolong cases far beyond their necessary length. Variable methods of assessing impairment contribute to costs and conflict. Integrated, proactive, humanistic management of the worksite and of injured or ill workers has been shown to markedly decrease conflict, legal involvement, and case duration. ACOEM recommends that employers and insurers be responsible for better management of ill or injured workers to avoid conflict and legal entanglement. In addition, alternative methods of dispute resolution should be adopted to avoid protracted absence and payments simply to close cases, regardless of merit or medical necessity. Finally impairment evaluation should be standardized, streamlined and made objective to the greatest extent possible.

Data management

Too little data are available currently to accurately and appropriately manage medical care for ill or injured workers. Diagnostic and treatment codes and accurate records of lost time or modified duty are not collected in most cases, and when they are, are not validated. The information is rarely available in retrievable electronic form. This situation is very different from the current state of data for medical insurance claims. ACOEM recommends that all payers be required to collect and validate diagnosis, treatment, absence, and disability data in electronic databases that are available to manage care, absence, and to improve the system.

Quality improvement

Both care and management of ill and injured workers are currently highly variable and more costly than needed. The American College of Occupational and Environmental Medicine (ACOEM) recommends use of the above data to identify the best practices in preventing medical diagnosis and treatment and in medical, disability and claims management. This information should be used in structured programs to continuously improve quality and better manage costs.

Approved by the Board of Directors of the American College of Occupational and Environmental Medicine (ACOEM) on October 24, 1994.

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