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COA Report

A publication of the California Orthopaedic Association

Volume XVI Issue 2— Summer, 2004



Thanks to all of you!

Your attendance and participation guaranteed the success of our recent Annual Meeting/QME Course in Monterey.

As you probably know—but what a great statistic to repeat—COA is the largest state orthopaedic organization in the United States, and it represents over 2,000 California orthopaedic surgeons. This organization is your organization. Your leaders' responsibility is to serve your needs and make orthopaedic surgery practice better for surgeons and patients. The strength of the COA is the support all of you give to COA programs and policies. We need that support. Please let your local Board of Directors (BOD) representative know if you have a question or would like us to consider a topic. Board members are listed to the left of this article. The BOD consists of the COA officers and 16 orthopaedists and 11 California AAOS Board of Councilors, all representing geographic districts.

I encourage any of you who would like to be more directly involved in your organization to consider appointment to one of our standing committees. The COA has 16 committees that



Dale Butler, M.D., President



COA's new President, Dale Butler, M.D. (left) presents President's plaque to outgoing President, Norman Zemel, M.D. (right)

(Continued on Page 2)

COA Courses on the AMA Guides - 5th Edition November 3, 2004 - Oakland Airport Hilton November 4, 2004 - Irvine Marriott Hotel

The COA, AAOS and the American Academy of Disability Evaluating Physicians are co-sponsoring courses on the AMA Guides - 5th Edition. These will be basic courses focused on musculoskeletal injuries. Discounted copies of the AMA Guides are also available through COA. **To register for the courses and/or order the AMA Guides, complete and return the enclosed registration form.**

President's Column (continued from Page 1)

occasionally have vacancies. If you would like to be considered for one of these committees, please let your local BOD member or the COA office know of your interest. A roster of the COA Committees can be found on COA's website: www.coassn.org

Orthopaedic surgery practice is so much more complex now than when many of us started. In retrospect, it seemed so simple to "hang out a shingle" and go to work. No matter our ages, we have all evolved with the changes the practice of medicine has encountered in the past years. Young orthopaedists face new challenges--technology, new procedures, regulation, oversight, and liability issues—all usually without the collegial support that many historically enjoyed.

Look around your communities. Welcome the young orthopaedists. Offer them support. Encourage them to join you and get involved in the COA. COA and its members need to help educate our young colleagues about issues not taught in training programs: practice management, risk management, HIPPA, EMTALA, medical staff issues, how to best deal with hospital management, and Workers' Compensation. The future of orthopaedics (COA) is in the skills and success of these young orthopaedists. COA should be the source of collegial support and education for our young colleagues.

Today the practice of orthopaedic surgery can be so complicated. There is the increasing burden of our emergency care system, of being over-regulated and micro-managed, and a significant professional liability crisis. But, in spite of these issues, I wouldn't trade places with any other profession. We are privileged to be able to make a difference in so many people's lives. I am proud of the California orthopaedic surgeons. I hope you are, too.

Please mark your calendar now for our **2005 Annual Meeting/QME Course**. It will be held at the Esmeralda Resort and Spa in Indian Wells (Palm Springs area), May 13 – 15, 2005. If you have any suggestions for meeting agenda items, please contact me or David Hak the 2005 Program Chair. Our e-mail addresses are:
Dale Butler - drbutler@nccn.net
David Hak - david.hak@ucdmc.ucdavis.edu
Send a copy of your e-mail to the COA office: coal@pacbell.net

Again, thanks to all of you!

Dale R. Butler, M.D.
President

People in the News

Andrea Hoch has been appointed the Administrative Director of the Division of Workers' Compensation replacing Richard Gannon. Ms. Hoch was previously with the California Department of Justice.

Diane Przepiorski, Executive Director of the California Orthopaedic Association has been presented with the Executive Director of the Year Award by the American Academy of Orthopaedic Surgeons.

Orthopaedic Surgeons in California Search for Ways to Help Members of the Military

In April, 2004, a delegation made up of COA leadership and California AAOS Councilors participated in the National Orthopaedic Leadership Conference (NOLC) in Washington, D.C. Some of the attendees took this opportunity to visit Walter Reed Hospital at a time when many of the injured soldiers from Iraq were arriving there for treatment.

They were moved by these injured soldiers to encourage orthopaedic surgeons to do whatever we can to help the immediate members of the active duty, reservists, and National Guard soldiers to have ready access to musculoskeletal care here in the United States should those services be required. It was felt that this would be one way that we could help these family members and remove one worry on the part of the soldiers.

Many of these family members may be covered by Champus and others may or may not have health insurance. **We would urge orthopaedic surgeons in California to do whatever they can to help these individuals should they call your office seeking medical services.**

In addition, COA is looking into an OREF research grant to study these unique injuries so that we can learn from and possibly integrate into our practices, more effective treatments for these types of injuries.

2004 Annual Meeting/QME Course/Orthopaedic Coding Courses New COA Officers Elected 42" Plasma TV Given Away in Exhibit Hall

COA's 2004 Annual Meeting/QME Course/Orthopaedic Coding courses were held May 20-23, 2004 at the Portola Plaza Hotel in Monterey. Mark Wellisch, M.D. was the Program Chairman. The following symposiums were held at the meeting: Current Trends in Treatment of the Distal Radius, Updates on the Foot and Ankle, Metastatic Bone Disease, In-Office MRIs, The Future of Out-Patient Surgery Facilities, Overview of the 2003 and 2004 Workers' Compensation Reforms along with the QME Course and orthopaedic coding courses. Nearly 450 orthopaedic surgeons and their staff attended the meeting along with 71 technical exhibitors.

New COA Officers elected at the meeting include:

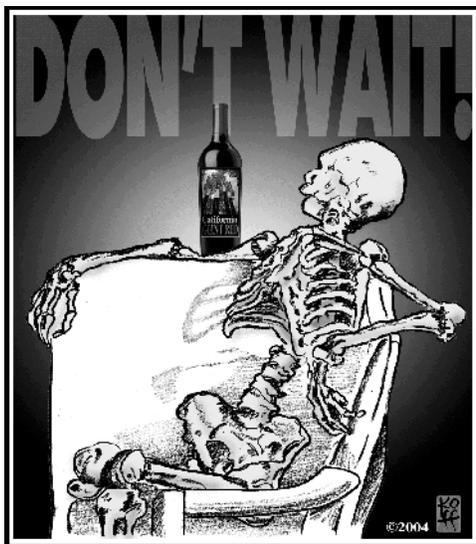
President	Dale R. Butler, M.D., Grass Valley
First Vice President	Richard F. Santore, M.D., San Diego
Second Vice President	Larry D. Herron, M.D., San Luis Obispo
Secretary-Treasurer	James T. Caillouette, M.D., Newport Beach

Founders' Award

Richard J. Barry, M.D., of Davis received COA's highest award, "The Founders' Award", in recognition of his outstanding contribution to the furtherance of quality orthopaedic care in California, particularly in the area of on-call emergency room call issues.



Raymond Berg, M.D. (left) presents Founders' Award to Richard Barry, M.D. (right).



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Resident Paper Award Winners

- OREF Resident Award** - Maneesh Bawa, M.D., UC San Diego
- Lloyd Taylor, M.D. Resident Award** - Alfred Kuo, UC Davis
- Depuy Resident Award** - R. Todd Allen, M.D., UC San Diego
- Orthopaedic Hospital Resident Award** -
Matthew Provencher, M.D., Naval Medical Center San Diego

Each resident and their orthopaedic program received a cash award of \$500 and the resident's travel expenses were paid by COA to attend the meeting to present their papers.

"Wines from the Heart" of Monterey selected wines from Monterey Valley to feature at COA's Presidential Reception and created this artwork for the event.

2004 Annual Meeting/QME Course/Orthopaedic Coding Course

Exhibit Hall Prize Winners

The **Grand Prize Winner** of a Gateway 42" Plasma TV/Monitor was **Ilan Tamir, M.D.** of Los Angeles donated by Netrik Consulting and MedcomSoft, Inc.

Other exhibit hall winners included:

Blair Filler, M.D. - \$100 Nordstrom Gift Certificate from CAP-MPT
 Clement Alade, M.D. - Wine Basket from Personal Touch
 Dale Butler, M.D. - Wine Basket from Personal Touch
 Edwin Ashley, M.D. - Digital Camera from Omega Physical Therapy
 Charles McElwee, M.D. - Digital Camera from Ancillary Care Solutions
 David Levine, M.D. - ACOEM Practice Guidelines
 Art Garfinkel, M.D. - \$200 book gift certificate from Elsevier
 Sandy Lazar, M.D. - \$200 book gift certificate from Elsevier
 Dennis Rhyne, M.D. - \$50 Gift Certification to Pottery Barn from Bionicare
 John Lake, M.D. - portable DVD player from Acordia
 Arturo Gomez, M.D. - portable DVD player from Acordia
 Jeffrey Coe, M.D. - MP3 player from Acordia
 Charles Resnick, M.D. - bottle of 2002 Hahn Estates Meritage
 Ken Ishizue, M.D. - bottle of 2002 Hahn Estates Meritage
 Robert Burky, M.D. - bottle of 2001 Marilyn Remark Grenache
 Burton Redd, M.D. - bottle of 2001 Marilyn Remark Grenache
 Clayton Patchett, M.D. - bottle of 2000 Pessagno Chardonnay
 Wayne Chronister, M.D. - bottle of 2000 Pessagno Chardonnay
 Sohail Ahmad, M.D. - bottle of 2001 Smith & Hook Cabernet Sauvignon
 Donald Fareed, M.D. - bottle of 2001 Smith & Hook Cabernet Sauvignon
 William Boeck, M.D. - \$50 gas card from Benchmark Administrative Services
 Stephen Corcoran, M.D. - \$50 gas card from Benchmark Administrative Services
 Edwin Kingsley, M.D. - \$50 gas card from Benchmark Administrative Services
 Arturo Gomez, M.D. - \$50 gas card from Benchmark Administrative Services
 Jon Sigurdson, M.D. - \$250 book Gift Certificate from Lippincott
 Art Garfinkel, M.D. - \$250 book Gift Certificate from Lippincott
 Parviz Galdjie, M.D. - \$100 cash award from
 Physician-Owned Surgery Centers
 James Kayvanfar, M.D. - \$100 cash award from
 Physician-Owned Surgery Centers
 Tom Zewert, M.D. - \$100 cash award from Physician-Owned Surgery Centers
 Henry Bruce, M.D. - 6 month web hosting and website from MD Logic
 Burton Redd, M.D. - 6 month web hosting and website from MD Logic
 Martin Trieb, M.D. - bottle of wine from Prime Clinical Systems
 Leonard Kalfuss, M.D. - bottle of wine from Prime Clinical Systems



Netrik Consulting representative (left) presents the Grand Prize to Ilan Tamir, M.D. (right).

Thank You

to all of the exhibitors who supported COA's Annual Meeting/QME Course.

A Special Thank You to

Frontier Medical
 Depuy
 Novartis
 GE Medical Systems-Orthopedics
 Merck
 VQ Ortho Care
 Eska America Corporation
 for also supporting clinical symposiums/social events at the meeting.



Peter Gardner (right) of Physician-Owned Surgery Centers presenting cash awards.

WORKERS' COMPENSATION NEWS

Implementation of the 2003/2004 Workers' Compensation Reforms

This article is to share with you experiences of our members with the implementation of the 2003/2004 Workers' Compensation Reforms and to provide you with an update on COA's activities and advisory opinions we have adopted in response to areas of concern. The advisory opinions are printed on Pages 7-8 of this newsletter.

Apportionment Change

LC Section 4663 requires that apportionment of permanent disability be based on causation. This section was effective immediately upon the signing of SB 899. This has caused carriers/self-insured employers and applicant attorneys to request supplemental reports on cases that have not yet been settled, asking the evaluator to revise their previous conclusions based on the new law. No subsequent evaluation is generally requested even though the injured worker may have been evaluated several years ago.

These supplemental reports should be billed as a ML-104 under the Medical-Legal Fee Schedule at the rate of \$50 per quarter hour with Modifier -97.

Medical Provider Networks

Medical Provider Networks can be implemented by Workers' Compensation carriers/self-insured employers as of 1/1/05. The network must contain physicians treating nonoccupational injuries and be approved by the Administrative Director of the Division of Workers' Compensation. We are anticipating that you will receive many different types of solicitations to join these networks. To date, COA members have reported the following contacts:

1. Entities attempting to form a medical provider network. It is important to note that these entities will still have to market their network to carriers/self-insured employers. They may or may not be successful in this effort. These entities seem to be asking the treating physician to accept a discount from the OMFS reimbursement levels to be included in the network.
2. Workers' Compensation carriers/self-insured employers requesting that the physician/medical group agree to be part of their medical provider network. In these instances, the carrier/self-insured employers do not seem to be requiring physicians to accept a discount in reimbursement rates to be part of their network. **We would suggest that you contact Workers' Compensation carriers/self-insured employers with whom you currently see a number of their patients and let them know that you are interested in being part of their direct medical provider network.**
3. Other carriers/self-insurer employers seem to be working with Kaiser to establish their medical provider network. It is anticipated that these networks will also be seeking contracts with specialists.

COA urges the following cautions when considering these networks:

1. **Read the contract.** Make sure the contract clearly states the reimbursement rates, the coding and billing rules that will be applied, the physician's responsibility for obtaining authorization for services, reporting requirements, timeframes for payment, termination notice requirements for both the physician and the carrier/self-insured employer, and a requirement that you must be notified and agree in writing to any changes to the contract including changes in reimbursement rates and/or extending the contract terms to any other entity.
2. Make sure that you agree with any treatment restrictions that may be applied. If there are areas of disagreement, clearly state your treatment practices in the contract.
3. Know your practice expense costs and the unique costs involved in treating injured workers so that you can consider these costs when evaluating these contracts.

Please remember that it is generally very difficult to get your name removed from these networks should you later decide to drop out of the network. In the past, physicians have had to drop out of all networks and then wait about 6 months before their name was finally removed from the various networks.

Implementation of the 2003/2004 Workers' Compensation Reforms

Definition of an AOE/COE Evaluation

One of the hardest concepts to get insurance adjusters to comprehend is whether or not they are requesting a medical-legal examination or a medical examination to determine whether the injury is work-related - an AOE/COE examination. Some self-insured employers believe that under the reforms, all AOE/COE evaluations are now medical-legal evaluations. We believe that issue is still open to debate. The OMFS Ground Rules state that there must be a disputed medical issue for the evaluation to be billed under the Medical-Legal Fee Schedule. COA has developed a definition of an AOE/COE Evaluation to help clarify these issues. The definition is printed on Page 9 of this newsletter.

Contract Terms

COA has received complaints regarding HealthNetPlus, a bill review company which is a subsidiary of First Health, that they are: 1) inappropriately applying discounts to Workers' Compensation claims; and, 2) inappropriately downcoding CPT codes billed. In the case of applying discounts, in some cases the orthopaedist does have a contract with First Health agreeing to accept a 4%-5% discount, but HealthNetPlus routinely applies a 15% discount even after the error is repeatedly brought to their attention. In other cases, the orthopaedist does not have a contract with First Health or has dropped out of the network and the 15% discount continues. The downcoding of the level of service seems to be primarily in downcoding consultations to regular office visits.

COA has raised this issue with the State Department of Insurance and the Division of Workers' Compensation who have both expressed an interest in investigating these complaints.

We need your help. We need to compile a list of Workers' Compensation carriers and self-insured employers utilizing the services of HealthNetPlus. We also need examples of Workers' Compensation claims that have been inappropriately downcoded or had an incorrect discount taken by HealthNetPlus. **If you have had claims reviewed by HealthNetPlus and/or experienced these problems, send the above information to the COA office at your earliest convenience.**

Prior Authorization for Services

COA members have complained that Sierra Health and Life Insurance Company, an HCO licensed in California performing utilization review services, sent out a letter to physicians in California which indicated that they would be requiring prior authorization for all non-emergency medical treatment or diagnostic testing. In response to complaints from medical providers receiving this letter, Sierra Health has clarified their UR policy and listed the services for which prior authorization would not be required. After several attempts to get Sierra Health to clarify their policy from a specialist viewpoint, they have issued a clarification letter printed on Page 11 of this newsletter. While this clarification still leaves some questions unanswered, it is provided to you to update you on their current UR policy.

COA Clean-up Legislation

COA is seeking clean-up legislation in the following areas:

1. **Referral to outpatient surgical facilities in which the physician has an ownership interest.** We are seeking to clarify that these referrals are permitted under LC Section 139.31 if the physician obtains authorization for the medical service and discloses their financial interest. We do not believe the legislation intended to give the carrier/self-insured employer the ability to deny the service based on where the surgery is to be performed which is how some entities, particularly utilization review companies, have interpreted LC Section 139.3. When challenged, some entities are revising their out-right ban on any referrals and acknowledging the exemptions to the prohibition found in LC Section 139.31. See the most recent letter from American Commercial Claims Administrators published on Page 10 of the newsletter revising their policy.
2. **Utilization Review** - Current law requires the carriers/self-insured employers to act on treatment requests within 14 days, but is silent on what happens if they fail to act. COA's clean-up legislation clarifies that the service is deemed approved if the carrier/self-insured employer fails to act within 14 days of the request.
3. **ACOEM Practice Guidelines** - COA is proposing language which would clarify that the ACOEM Practice Guidelines apply only to the initial 45 days of treatment.
4. **Post-Surgical Rehabilitative Therapy Services** - COA is proposing language that clarifies that the 24 visit limitation does not apply to post-surgical rehabilitative therapy services.

COA Board of Directors' Adopt Advisory Opinions

California Orthopaedic Association

Advisory Opinions

American College of Occupational and Environmental “Occupational Medicine Practice Guidelines”

The 2nd edition of the Occupational Medicine Practice Guidelines provides information and guidance on generally accepted elements of quality care in occupational and environmental medicine. The goal of the 2nd edition is to improve the efficiency with which the diagnostic process is conducted, the specificity of each diagnostic test performed and the effectiveness of each treatment in relieving symptoms and achieving cure.

COA agrees with these goals, not only in the diagnosis of the injury, but for the entire course of treatment.

It is important to note, however, that treatments described in the Practice Guidelines typically are performed within the first 45 days following the injury - the acute stage of the injury. Practice Guidelines for the chronic state of an injury – after the initial 45 days - are more variable depending on the patient's injuries and co-morbidities. We do not believe that treatment of chronic conditions are covered within the ACOEM Practice Guidelines.

In addition, the Guidelines are silent on when the injured worker should be referred to a specialist for an evaluation to verify the diagnosis and review treatment options.

COA has respectfully adopted the following policy statements on the ACOEM Practice Guidelines:

- 1. COA does not recognize the ACOEM Practice Guidelines for the treatment of chronic musculoskeletal conditions.**
- 2. In order to validate the diagnosis and provide optimal treatment, injured workers requiring ongoing treatment at 45 days after the date of injury, should be evaluated by an appropriate specialist.**

Adopted: May 4, 2004

Collection of Interest and Penalties - Workers' Compensation

Workers' Compensation carriers and self-insured employers routinely ignore the payment of interest and penalties even though Labor Code Section 4603.2 (b) specifically lays out the penalties and interest for late payments. Many times, physicians do not pursue these payments since on any one claim, they are generally small amounts. They do not realize that over time, these unpaid amounts are significant. Physicians also fear retribution from the carrier/employer should they demand payment. This, however, only encourages carriers and self-insured employers to not routinely pay these fees when they are due.

The COA Board of Directors, hereby adopts this Advisory Opinion that encourages all COA members to make a demand for unpaid interest and penalties under Labor Code Section 4603.2 when Workers' Compensation carriers or self-insured employers do not pay their claims in a timely manner.

Adopted: November 8, 2003

COA Board of Directors' Adopt Advisory Opinions**California Orthopaedic Association
California Orthopaedic Association****Advisory Opinions****Rehabilitative Services - Workers' Compensation**

2003 Workers' Compensation reforms limit the number of chiropractic and physical therapy visits to 24 visits per injury. The legislation does not make provision for physical therapy or chiropractic services for post-surgical patients. By the time that surgery is performed, the injured worker may have already exhausted the rehabilitative services allowed. Rehabilitative services for surgical patients can be key to their optimal recovery.

The COA Board of Directors hereby adopts this Advisory Opinion that encourages surgeons to seek prior authorization for anticipated rehabilitative services before performing surgery to ensure that injured workers have access to appropriate rehabilitative services following surgery in order to achieve the highest level of recovery.

Adopted - November 8, 2003

Medical Expert Witness Testimony

Courts rely heavily on the testimony or written reports of physicians when evaluating medical conditions. Some medical experts or evaluators base their comments on evidence-based studies and others on their personal opinion of the issue.

The COA Board of Directors hereby adopts this Advisory Opinion that encourages orthopaedic surgeons who provide medical opinions about injured workers – either through personal testimony or written reports – ensure that their comments are evidenced based whenever possible. Should they express opinions based on personal experience, orthopaedic surgeons shall clearly state that such comments are personal opinions.

Adopted - November 8, 2003

California Orthopaedic Association

Definition of an AOE/COE Evaluation

One of the hardest concepts to get insurance adjusters to comprehend is whether or not they are requesting a medical-legal examination or a medical examination to determine whether the injury is work-related – an AOE/COE examination.

AOE - arising out of employment. This is the medical issue.

For example, did the incident/workplace cause the medical condition?

COE - during the course of employment. This is the legal issue.

For example, was the individual on company business at the time of the incident while driving his/her own car?

While the Division of Workers' Compensation has clearly stated in the Official Medical Fee Schedule Ground Rules that, "A medical-legal evaluation takes place only for a contested claim or a disputed medical fact," there is no definition of an AOE/COE examination. When the physician is performing an AOE/COE evaluation, there is no medical issue in dispute.

COA defines an AOE/COE evaluation as an evaluation exclusively to determine whether the injury was work-related. In this evaluation, we believe the evaluator should only discuss the primary question of whether the injury was work-related. The other issues such as whether the current treatment is appropriate, is surgery indicated, or can the injured worker return to work, is over and above an AOE/COE evaluation.

Other issues the evaluator would not discuss include: apportionment or need for future medical treatment.

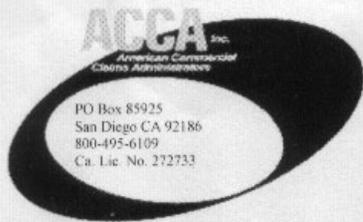
AOE/COE reports are billed as follows: 1) the appropriate level of evaluation and management, 2) report code (99080), and 3) prolonged service code (99358), if appropriate.

If the evaluator is asked to address more than just the primary AOE/COE issue by the referring adjustor/attorney, but there is no dispute, the evaluation falls under Labor Code Section 4050 and authorization should be obtained for a complete medical examination and billed under the consultation codes (99241-45) along with the report code (99080), and prolonged service code for record review (99358).

No penalty of perjury statements are required in either of the above reports. These reports would not be ratable before the Workers' Compensation Appeals Board.

If a ratable report is requested, covering all of the above issues, the report would be a Medical-Legal report. The report would include the penalty of perjury statements and billed under the Medical-Legal Fee Schedule.

Implementation of the 2003/2004 Workers' Compensation Reforms



California Orthopedic Association
5380 Elvas Ave. Suite 221
Sacramento CA 95819
Attn: Diane Przepiorski

June 25, 2004

Dear Ms. Przepiorski:

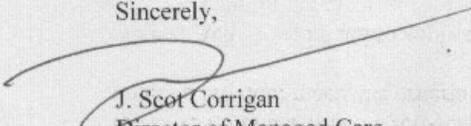
Thank you for your letter of 06/04/04 regarding American Commercial Claims Administrators (ACCA) position on LC 139.3. As you have correctly pointed out, LC 139.31(i) lists exceptions to LC 139.3 under which a self-referral is permitted. At this time it is ACCA's position that unless a provider meets the criteria listed in LC 139.31, the provider is in violation of LC 139.3.

Here at ACCA we intend to apply the LC consistently to all vendors. We have no intention of denying appropriate medical care and in instances where there is or may be a conflict, we ensure the physician and injured worker are aware of alternative facilities, in a reasonable geographic area in which the treatment may be provided.

If you have specific self-referral billing questions on a specific claim, please feel free to address in writing to our bill review company:

Qmedtrix
1920 Main Street, Suite 120
Irvine CA 92614

Sincerely,


J. Scot Corrigan
Director of Managed Care

*American Commercial Claims Administrators P.O. Box 85925 San Diego, CA 92186
Telephone: (800)495-6109 Facsimile (866)820-0399*

Implementation of the 2003/2004 Workers' Compensation Reforms



SIERRA HEALTH and LIFE INSURANCE COMPANY, INC.®

A subsidiary of Sierra Health Services, Inc.

June 10, 2004

Diane Przepiorski
California Orthopedic Association
5380 Elvas Avenue, Suite 221
Sacramento, CA 95819

Diane Przepiorski:

See if we are any closer to what we discussed the other day.

Sierra Health and Life requires all requests for treatments and/or procedures must be prospectively reviewed with the exception of the following:

1. Durable medical equipment less than \$100. (This does not include lumbar supports, cervical collars, or supplies for durable medical equipment - i.e. batteries, gel pads, electrodes for Tens units etc. after initial supplies have been issued)
2. Routine initial visit, routine follow-ups and routine plain film x-rays by the Primary Treating Physician. (casting or splinting orthopedic injuries) (This does not include any other type of treatment modality (Chiro/PT) or other diagnostic testing. (MRI, CT, EMG etc.)
3. If the Primary Treating Physician has requested a consult with a specialist (which must be pre-authorized), and this specialist takes over the care of the injured worker (PTP retains control for P&S), then this secondary physician or specialist, falls under the same exclusion as the Primary Treating Physician (#2).
4. Prescription medications prescribed by the Primary Treating Physician, and/or the secondary or consulting physician (as referenced in #3), other than long term opioids. (Long term opioids include Oxycontin, MS Contin, Kadrian, Avinza, Duragesics, or any generic equivalents of these medications.)

Our Medical Director is still adamant, as I explained, about getting prior authorization for trigger point injections and cortisone injections. However, if a referral is made to one of your physicians and the type of diagnosis or injury generally requires an injection somewhere along the course of treatment, then request an approval ahead of time. Example: Unspecified shoulder pain. Dr. Smith refers to Dr. Gomez ortho. Dr. Gomez office knows if patient is being seen for unspecified shoulder pain that in the course of the treatment a injection may be required as part of the Dr.'s treatment plan they could request up front or on the first PR2 that is submitted with MD proposed treatment plan. We can always pre authorize.

Sincerely,

Cheri M. Gough RN, BSN
Manager of the Medical Disability Management Department
Sierra Health and Life Insurance Company/Workers' Compensation Division.
(888) 297-8423 ext 8255
Fax: (702) 869-237

WORKERS' COMPENSATION DIVISION
P.O. Box 46170 Las Vegas, Nevada 89114-6170
Phone # (888)297-8423 - Fax # (702) 869-2377

Opinion from Suzanne Honor-Vangerov, Medical Unit of DWC on Reimbursement for Pharmaceuticals

Several of our members have complained that Workers' Compensation carriers are reimbursing varying amounts for pharmaceuticals dispensed in a physician's office for injured workers. COA sought clarification from the DWC and below is Sue Honor-Vangerov's, DWC Workers' Compensation Manager, opinion on this issue.

Subject: **Reimbursement for Pharmaceuticals**
Date: Fri, 11 Jun 2004 10:38:02 -0700
From: Sue Honor <SHonor@hq.dir.ca.gov>
To: Diane Przepiorski <coal@pacbell.net>

DWC published a Newline addressing this issue. It is reproduced below. Basically the rates are the same as they were on December 31, 2003. There is no discount.

Payment for pharmaceuticals not covered by Medi-Cal fee schedule Labor Code Section 5307.1, subdivisions (a), (d) and (e), enacted last year as part of Senate Bill 228, govern the payments for pharmaceuticals under DWC's official medical fee schedule (OMFS). These sections state that:

"(a)...for pharmacy services and drugs that are not otherwise covered by a Medicare fee schedule payment for facility services, the maximum reasonable fees shall be 100% of fees prescribed in the relevant Medi-Cal payment system.

"d)...If the administrative director determines that a pharmacy service or drug is not covered by a Medi-Cal payment system, the administrative director shall establish maximum fees for that item, provided, however, that the maximum fee paid shall not exceed 100 percent of the fees paid by Medi-Cal for pharmacy services or drugs that require comparable resources.

"(e) Prior to the adoption by the administrative director of a medical fee schedule pursuant to this section, for any treatment, facility use, product, or service not covered by a Medicare payment system, including acupuncture services, or, with regard to pharmacy services and drugs, for a pharmacy service or drug that is not covered by a Medi-Cal payment system, the maximum reasonable fee paid shall not exceed the fee specified in the official medical fee schedule in effect on December 31, 2003."

At the beginning of the year DWC established a web based price calculator that provides parties the Medi-Cal price for drugs. It is located at <http://www.dir.ca.gov/dwc/pharmfeesched/pfs.asp>

Since then, questions have arisen about fees for drugs that are not on the Medi-Cal price list. For instance, the web query service does not work for many repackaged drugs. Since Medi-Cal does not reimburse for most repackaged drugs, their price information is not available in the Medi-Cal database. DWC is in the process of determining the proper method of reimbursing for drugs not covered by Medi-Cal. All pharmaceuticals whose National Drug Code (NDC) numbers appear in the Medi-Cal database on the DWC web site are governed by the Medi-Cal rates, regardless of who dispenses the pharmaceutical.

Payment should not be denied based on the NDC number not being in the database. For NDC codes not listed, DWC will be developing an alternative methodology for setting maximum reasonable fees for pharmaceuticals. That fee schedule will be adopted after public hearings. Until that time, and pursuant to Labor Code section 5307.1 (e), the maximum reasonable fee paid shall not exceed the fee specified in the official medical fee schedule in effect on December 31, 2003.

Suzanne Honor-Vangerov, Workers' Compensation Manager
Division of Workers' Compensation - Medical Unit

Disclaimer: The statements contained in this e-mail represent my opinion only, and are not official statements of the Division of Workers Compensation. I am not speaking in any official capacity on behalf of the Division of Workers Compensation. While I believe the statements to be correct, the answer to any dispute may turn upon the special facts of unique situations. It is possible that if a dispute were ultimately resolved by the Workers Compensation Appeals Board or by the Administrative Director, the decision may be otherwise than one might predict from this e-mail.

Workers' Compensation News

Your Input Is Needed

As a part of the 2004 Workers' Compensation reforms, we are anticipating that carriers and self-insured employers will need more timely access to orthopaedic surgeons for AOE/COE evaluations.

SB 899 requires the carrier/self-insured employer to **provide and pay for treatment** until the claim is accepted or denied. Their liability is limited to \$10,000. In the past, carriers/self-insured employers have had 90 days to accept or deny the claim. We believe that this change will cause employers and carriers to seek more timely AOE/COE evaluations.

COA is creating a list of COA members who are willing to perform an AOE/COE evaluation on an expedited basis. We are defining expedited basis as within 2 working days of the request. We plan to circulate this list to carriers/self-insured employers. If you would like to be included on this list, please complete and return the below form to the COA office.

AOE/COE Availability

_____ **Yes**, I am willing to perform an AOE/COE evaluation - within 2 working days of the request.

(please print)

Your Name: _____

Address: _____

City/ST/Zip: _____

Phone: _____ **Fax:** _____

E-Mail: _____

Board Certified: Yes: _____ **No:** _____

Subspecialty Area of Interest: _____

Return completed form to COA, 5380 Elvas Ave., #221, Sacramento, CA 95819

Fax: 916-454-9882 by August 31.

Classified Ads/Upcoming Meetings

Neil Diess, M.D. of Downey

Orthopaedic spine surgeon, Neil Diess, of Downey, recently passed away. His wife, Lois, has numerous orthopaedic medical books that she would like to donate to someone who would like them. They include:

Clinical Orthopaedics and Related Research - 1968-2002 - published by Lippincott

The Orthopaedic Clinics of North America - 1983-1993 - Published by W. B. Saunders

If you are interested in these and other orthopaedic books she may have, contact Lois Diess - 562-927-8422.

2004 Annual Meeting of the American Academy of Cerebral Palsy and Development Medicine - September 29-October 2, 2004 at the Century Plaza Hotel and Spa in Los Angeles. For registration information, contact AACPDM at 847-698-1635.

COA's 2005 Annual Meeting/QME Course May 13-14, 2005, Esmeralda Resort and Spa, Indian Wells (Palm Springs area.)

Medicare News

Arthroscopic Lavage and Debridement for Osteoarthritic Knee no longer Eligible for Medicare Reimbursement

Beginning July 11, 2004, CMS will no longer allow Medicare coverage for certain indications of arthroscopy for the osteoarthritic knee. In a National Coverage Decision (NCD) issued on June 10, CMS determined that: 1) arthroscopic lavage alone is not a reasonable and necessary treatment option for patients with osteoarthritis of the knee, 2) arthroscopic debridement is not reasonable and necessary treatment option for patients with knee pain only, 3) arthroscopic debridement is not a reasonable and necessary treatment option for patients with severe osteoarthritis (Outerbridge classification III or IV), 4) all other indications of debridement for patients with osteoarthritis of the knee will remain at contractor discretion.

The NCD followed many recommendations from the AAOS and other musculoskeletal specialties societies. In response to a AAOS request, CMA has expanded its NCD to include the kinds of indications of debridement that would warrant coverage at "contractor discretion." These indications include: 1) mechanical symptoms that include, but are not limited to, locking, snapping, or popping, 2) limb and knee joint alignment, and 3) less severe and/or early degenerative arthritis.

The CMS coverage decision can be found at:
[http://www.cms.hhs.gov/Manuals/pm trans/R14NCD.pdf](http://www.cms.hhs.gov/Manuals/pm%20trans/R14NCD.pdf)



ORTHOPAEDIC SURGEONS, PHYSICAL MEDICINE NEUROLOGISTS, NEUROSURGEONS, PSYCHIATRISTS

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News of Interest

Medical Expert Witness Testimony

COA and the AAOS have received complaints that some orthopaedic surgeons are providing medical expert witness testimony that does not represent current treatments for musculoskeletal injuries. This inappropriate testimony distorts medical treatment and often creates disputes with other orthopaedists testifying in the case.

COA has formed a Task Force on Medical Expert Witness Testimony to explore state action on this issue. Most recently, COA's Task Force is seeking to work with the Medical Board of California to assist them in evaluating complaints regarding inappropriate testimony. California's Attorney General issued an opinion on April 28, 2004 clarifying that, "the Board may discipline a physician for unprofessional conduct even though the actual misconduct does not constitute the practice of medicine or cause harm to individual patients." COA supports this position and has sent a letter to the Medical Board offering to serve as a consultant to them to assist them in developing a reporting system and in evaluating complaints against orthopaedic surgeons. We encourage our members to report inappropriate testimony to the Medical Board. The Division of Medical Quality will be discussing this issue at its July 30 meeting in Sacramento. A copy of the AG's opinion may be obtained by faxing a request to the COA office - 916-454-9882.

In addition, the AAOS has launched educational efforts to inform its members regarding this issue and is actively collecting statements from members affirming that their testimony will follow ethical guidelines established by the AMA and other medical societies able to withstand peer review and disciplinary scrutiny. To date, the AAOS has received over 5,000 signed affirmation statements. To obtain a copy of the affirmation statement, go to the AAOS website: <http://www.aaosexpertwitness@aaos.org>

Report on COA's 2004 On-Call Survey

Dr. Richard Barry reported on the results of COA's 2004 Emergency Room On-Call Survey at the 2004 Annual Meeting. He compared information compiled in 2000 with the 2004 information which represented information from 165 acute care hospitals throughout California and found that:

	2000 data	2004 data
Percentage of orthopaedists reimbursed for call services	26%	56%
Stipends ranged from	\$100-\$1700 per day	Several options were reported: \$200-\$2700 stipends per day whether called in or not \$500-\$800 per case or \$100 per hour

In the 2004 survey, we also found that some orthopaedists are paid a premium for weekend or holiday call -

- 38% - 80% higher pay on Friday; 100% -160% higher on Saturday and Sunday, and 233% higher on holidays.
- 14% of the hospitals in the survey, did not pay a stipend, but guarantee payment for on-call services ranging from 100%-140% of Medicare to \$800 per case.

- 32% of respondents had to refuse to take call in order for their hospital to agree to pay them a stipend;
- 8% actually took their cases to another hospital in the area;
- only in 3 instances did the orthopaedists go on strike.

Orthopaedists were successful in changing their hospital by-laws to either allow for a stipend or delete mandatory call as a condition of staff privileges in 18% of the hospitals included in the survey. 22% of the hospital had a separate call roster for trauma, 37% of the hospitals exempt orthopaedists from call based on age which ranged from age 50-65 or after taking call for 20 years or more. 13% of the hospitals exempt an orthopaedist from call based on their subspecialty. 62% of the hospitals require the orthopaedist to perform the follow-up care.

COA has developed a White Paper to assist members in determining their costs of serving on-call. To obtain a copy of the White Paper, fax a request to the COA office - 916-454-9882.

Welcome to COA's Newest Members

William J. Mealer, M.D. Manhattan Beach
Chris Meckel, M.D. Monterey
Fred V. Orcutt, M.D. Aliso Viejo
Peter Pappas, M.D. San Rafael
Luga Podesta, M.D. Oxnard
Martha Singer, M.D. Berkeley
Payam Tabrizi, M.D. San Jose

COA's 2004 dues are now due.

If you have not already paid your dues, we would encourage you to do so at your earliest convenience. To check your membership status, contact the COA office - 916-454-9884.

COA is working hard this year to protect your interests, particularly as we sort out the Workers' Compensation reforms and reimbursement issues and to defeat efforts by allied health professionals to expand their scopes of practice into orthopaedic practice areas. **Your support of the organization is very much appreciated.**

COA 2004 Membership Directory Changes

Brooks, Andrew - 2031 Anderson Rd. #A, Davis 95616
Phone: 530-757-3700 Fax: 530-756-6907

Farr, Morteza - 632 W. 11th St., #219, Tracy 95376
Phone: 209-836-5657 Fax: 209-836-5399

Golod, Mark - 2505 Samaritan Drive, San Jose 95124

Stuart, Charles
Keohane, Jr., John
Stock, Michael
Oechsel, Michael
Goltz, David

18 Bon Air Road, Larkspur 94939
Phone: 415-927-5300 Fax: 415-927-6860

Byers, Robert - 2 Bon Air Road #120, Larkspur 94939
Phone: 415-927-5300 Fax: 415-927-5242

Rogers, Tiffany - 3640 Lomita Blvd. #102, Torrance 90505
Phone: 310-378-8232 Fax: 310-373-5726

MOVING?

Please notify COA promptly if you are moving.

Name: _____

New
Address: _____

City/ST/Zip

Phone: _____

Fax: _____

E-Mail: _____

Mail to: COA, 5380 Elvas Ave., #221,
Sacramento, CA 95819

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