Trends in California’s Workers’ Compensation System

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SB 863 – Landmark reform of 2012 under the Brown Administration

• Addressed the needs of injured workers and employers – the primary stakeholders in the workers’ compensation system

• Specific attributes of SB 863 included the following:
  • Changes in permanent disability
  • Changes to supplemental job displacement vouchers
  • Creation of "Return to Work Fund"
  • Introduction of independent medical review
  • Improving medical provider networks
  • Introduction of independent bill review
  • Changes regarding liens
  • Fee schedules
  • Changes for qualified and agreed medical evaluators
  • Changes for self-insured employers

• Reforms met the primary objectives of increasing benefits while lowering premiums through the elimination of friction costs
  • Benefits for injured workers increase by 30 percent
  • Anticipated rate spike was prevented and employers have had four consecutive rate reductions

• AB 863 brought both stability and sustainability to California’s workers’ compensation system
Trends in Pure Premium Rate vs Actuals

Workers’ Compensation Insurer Rate per $100 of Payroll Projected and Submitted by WCIRB, Approved by Insurance Commissioner, and Average Filed by Insurers (Dollar $)

Note: for periods 7/13 - 12/13 and 7/14 - 12/14, the WCIRB did not submit and the Insurance Commissioner did not issue decisions on PPR.

Source: WCIRB
Wage Replacement Rates Exceed 80% Post SB 863

Source: RAND
SB 863 reforms revealed need for evidence-based drug formulary

• AB 1124 (chaptered in 2015): Primary goal: ensure injured workers receive timely and appropriate care. Secondary benefit: reduced system costs.

• DWC has drafted rules and criteria for the application of the formulary and use of the MTUS drug list

• Preferred Drug Criteria
  • Being noted as a first line therapy weighs in favor of being preferred
  • Recommended for most acute and or acute/chronic conditions addressed in clinical guidelines weighs in favor of being preferred
  • A safer adverse effects (risk) profile weighs in favor of being preferred
  • Drugs listed for the treatment of more common work-related injuries and illnesses weighs in favor of being preferred

• MTUS Updates and Changes
  • Treatment Guidelines - ACOEM
  • Online education
  • Updating all MTUS evidence-based treatment guidelines to ensure alignment with formulary
Informed by independent empirical research

- RAND, *Implementing a Drug Formulary for California’s Workers’ Compensation Program*
  - Conducted a review and analysis of existing drug formularies
  - Looked at: Washington State, Texas, Ohio, ODG, ACOEM, and MediCal/Medicaid
  - Recommendation: Treatment guidelines and the formulary should incorporate the evidence-based standards of care that best meet the needs of California's injured workers
  - Recommendation: Consistency. Most MTUS guidelines are based on ACOEM. A formulary based on the ACOEM guidelines will enable consistency with the MTUS guidelines
  - The ACOEM guidelines have a more rigorous, transparent development process
Transparency from SB 863 enables fraud detection

• IMR and IBR
  • SB 863 took medical treatment and billing disputes out of the litigation system and redirected them into the evidenced-based, more timely, more transparent, and less costly Independent Medical Review and Independent Bill Review systems

• Liens
  • Reforms generated new data on liens, exposing provider fraud schemes and fraudulent activities

• Fraudulent behavior
  • These practices are prevalent among a small group of system abusers and we have taken significant steps to confront them
SB 1160 and AB 1244

- Chaptered in 2016 and took effect on January 1, 2017
- SB 1160
  - Adds requirements to verify that a lien is legitimate, that it is filed only by the lien holder, and that that liens owned by providers who have been indicted or charged with crimes be stayed until the disposition of criminal proceedings
  - Requires that all lien claimants file an original bill with their lien
  - Reduces utilization review requirements in the first 30 days following a work-related injury
  - Mandates electronic reporting of utilization review data by claims administrators to the Division of Workers’ Compensation, which will enable the division to monitor claim processes and address problems.
- AB 1244
  - Requires the DWC Administrative Director to suspend any medical provider, physician, or practitioner from participating in the workers’ compensation system after being convicted of fraud
  - Recently challenged: Court of Appeal promptly dismissed the filing
    - Denied the writ outright as premature and denied the request for an immediate stay
    - Michael Barri, who filed the writ, was one of the providers subject to the suspension process
Results of Anti-Fraud Efforts

• Pursuant to the provisions of SB 1160 and AB 1244:
  • Stayed 235,000+ liens worth a combined claim value of more than $1 billion
    • Liens are associated with 79 medical providers facing criminal fraud charges
    • 100,000 liens are associated with initial suspensions for 15 providers
  • Suspended 7 medical providers from participating in California’s workers’ comp system (convicted of workers’ comp fraud or medical fraud)
    • Filed more than 8,500 liens with a total claim value over $59 million

• Anti-Fraud Support Unit to share and track data from system participants

• DIR posts information on indicted medical providers online

• Through key partnerships with other agencies and system stakeholders, we can extend the reach of enforcement to stop system abusers and increase the certainty that bad actors will be caught
Next steps

• Continue using data to detect patterns of fraudulent behavior and assisting enforcement with removing bad actors from the system
• Implement the WC evidence-based drug formulary and update MTUS
• Work with agencies and stakeholders to find more ways to improve outcomes for workers and reduce friction costs for employers
• Review legislation to identify areas where we can increase efficacy