

WORK COMP REPORTER

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The New Letter of Clarification Process

By Jerry Portele

Last week, in its ongoing quest to streamline the system and limit access to answers, the Division of Worker's Compensation implemented a new system through which system participants are to request and obtain Letters of Clarification. Assuming you are not already aware, Letters of Clarification are very useful tools in helping parties obtain clarity on sometimes unclear designated doctor reports. For example, how often have you seen a report with a claimant having 90° of passive flexion in the elbow only to have active flexion topping out at 30°? Or having the ankle included in a carpal tunnel rating? The answer is if it has happened once, it has happened too often.

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Previously, Letters of Clarification were doled out with little resistance, with mixed results. They often lead to the end of disputes over the designated doctor's report or at the very least, provided a clearer understanding of the doctor's rationale. The problem was that they were a little too useful, and the doctors were not being paid for their efforts. Having had enough of the complaints, the Division "fixed" the problem.

As of September 1, 2010, all requests for clarification will go through an approval process with the Benefit Review Officers and the Benefit Contested Case Hearing Officers serving as the gatekeepers. The Division made it clear that the parties do not have a right to have a Letter of Clarification sent. Rather, the parties are granted permission by the Division to do so.

From now on, if you want a Letter of Clarification to be sent, you will need to file a written request to the Field Office assigned to the handling of the claim. You should not file a DWC-45 as done in the past. You can submit the request for a Letter of Clarification at any time during the dispute resolution process which includes the period before a BRC and *during* a CCH. Depending on what stage in the process a dispute rests, either a Benefit Review Officer or a Benefit Contested Case Hearing Officer will determine whether or not clarification is necessary to resolve an issue. If they decide one is necessary, they will send an order to the Designated Doctor Scheduling section that will coordinate the appointment

The DD Analysis:

Your New Letter of Clarification

By Jerry Portele

With the inception of the new letter of Clarification process, the use of DD analyses moves to the forefront as one of your most potent weapons in the battle against rogue designated doctors. In the past, it seems some carriers and TPAs treated DD analyses as afterthoughts, rather than necessities. We have always felt that DD analyses were integral parts of a successful dispute of the DD reporting process, but now so even more. If you handle a claim as though you will not be given the opportunity to question the designated doctor (and that is likely a safe assumption) then the DD analyses becomes your pre-exam Letter of Clarification, and you do not need Division approval to do it. The Rules already allow you to.

The DD analysis gives you an opportunity to tell the claimant's medical story from the Carrier's perspective, unbiased by the advocacy of the treating doctor. It allows you to explain what specific conditions have been accepted as compensable (i.e.; right knee medial meniscal tear vs. right knee), to point out clear discrepancies in the medical records (one day full range of motion , the next day very limited or no range of motion), chronology of treatment, and other medically relevant facts. They are now even more crucial in limiting exposure to IIBs, TIBs, and/or being forced to accept non-compensable body parts. Any of our attorneys, Dean, Jane, Tommy, or Jerry, can handle these for you in an effective and timely manner. Remember, a reduction of a single percentage point of impairment will cover the cost of the analysis in most, if not all cases. The bottom line is, as the Division chips away at the weapons in our arsenals, we need to make the weapons we have left that much more effective. The DD analysis is one of those weapons.



Questions?
Call us at
713-914-6200

Reimbursement from a HCP

By Tommy Smith

The process to obtain reimbursement from a health care provider when an overpayment occurs is much simpler than it may seem from reading Rule 133.260. Here are the steps in this process:

When an overpayment has been identified, the adjuster should obtain a copy of the bill and the check issued to pay the bill. Reprocess the bill through your URA and obtain an EOB that requests a full reimbursement for each check issued. Your request can not cover treatment that was rendered more than 240 days ago, unless an audit was involved and who is doing these. If you are then you probably already know the 30 day rule on that; otherwise see the Rule.

Send a copy of the packet to the HCP (include a copy of the bill, your check, and the amended EOB). This packet should be sent by verifiable means, either certified mail or delivery.

Within 45 days of receipt of your request for reimbursement the HCP must either issue the reimbursement or submit a written appeal to you explaining why the HCP shouldn't have to repay the carrier. If the HCP repays you no interest on the overpayment is required.

Within 45 days of receipt of the appeal you must provide written documentation to the HCP that you have rejected the appeal. Of course you don't have to wait the full 45 days to respond.

Within 45 days of receipt of your denial of the appeal the HCP must send you the reimbursement with interest if paid 60 days or later after receipt of your original request for reimbursement.

If the HCP is not satisfied with repayment, at that point the HCP can institute MDR to attempt to force you to repay all or part of the repayment.

If the HCP does not respond by any deadline, then a formal complaint should be filed with TDI asking that the HCP be investigated and a fine levied.

Of course you will want to keep careful documentation of each step and the paperwork to back up your efforts. If you adjust in a paperless system, or if you do not have time to go through these steps, you should provide your favorite law firm with the material from step one and ask us to do the work for you. Please let us know if you have any questions.

“the achievements of an organization are the result of the combined efforts of each individual”