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State: NY

Board Adding Carpal Tunnel Guidelines, Revising Current Rules: EAST [2013-01-17]

The New York State Workers' Compensation Board announced on Wednesday that it will update its medical treatment guidelines to add carpal tunnel syndrome, include new maintenance care program recommendations and revise the existing shoulder, knee, neck and back guidelines.

Board Chairman Robert Beloten said in a notice posted on the board's website that he is delaying the effective date of the new regulations until March 1 to give stakeholders more time to become familiar with them. The board proposed the additional guidelines in October.

The board said it is also offering free online training for medical providers and other stakeholders and has certified new courses for continuing education credits. The board encouraged professionals who completed training on the previous guidelines to take the updated classes. Information about the training is [here](#).

The Workers' Compensation Board borrowed the carpal tunnel syndrome guidelines from guidelines drafted for use in Colorado and Washington, marking a departure from its reliance on the American College of Occupational Medicine and Surgery.

"These states have prominent medical directors who hold faculty positions at their respective state medical universities," the board said in a regulatory impact statement. "Both guidelines are evidence-based, supplemented by consensus of medical professionals and have an ease and friendliness of use for the participants in the workers' compensation system."

The board revised the existing guidelines for treatment of the shoulder, knee, neck and back, in part, to relieve some of the controversy over its decision to apply the guidelines to the treatment of claimants who were injured before they took effect in December 2010.

The revised guidelines will allow up to 10 chiropractic, physical therapy or occupational therapy visits each year following a determination that the claimant has reached maximum medical improvement. Under the 2010 Guidelines, there were no provisions for any "maintenance" care after the claimant reached MMI.

"The medical community recognizes the effectiveness of limited maintenance care to retain function and relieve chronic pain," the board said in the regulatory impact statement. "It is important to note that no variance from the maximum of 10 'maintenance' visits will be permitted. This change will eliminate the delays in treatment that occur when claimants must await a decision on a variance request and reduce the costs associated with the request itself and the evaluation of the variance request."

Another revision to the existing guidelines remove anterior acromioplasty and chondroplasty from the list of treatments that require pre-authorization by the carriers. The board said a change in Current Procedural Terminology codes incorporate those procedures in need of pre-authorization into the definition of pre-authorized procedures, obviating a prior concern that the treatments could be overused for financial gain.

The board made other changes to its procedures to streamline the dispute-resolution process. Among the changes:

- The guidelines will prohibit the repeated submission of variance requests by a treating medical provider while earlier variance requests for substantially similar treatment are still pending or without additional information when the previous request has been denied. The board said the change ensures that the variance process is not abused by medical providers repeatedly submitting similar requests in hopes of obtaining an order approving the treatment.
- Variances must be submitted within two business days of the preparation of the request. This change addresses frequent technical violations of the regulations that resulted in rejected variance requests. The new rule accommodates typical medical office practices, the board said.
- Requests for review of a denial of a variance request will be directed to medical arbitration unless either the claimant or the carrier requests review by a workers' compensation law judge. The board said it was surprised by the volume of variance requests it received after adopting the treatment guidelines in 2010. Using medical professionals to mediate disputes instead of judges will reduce costs and lead to speedier resolution, the board said.
- The board removed a requirement that the informal resolution period last eight days. The board said it continues to encourage informal resolutions, but there is no need for the process to last eight days when it is clear that there will be no informal resolution.

The notice of the proposed amendments and related documents are [here](#). The announcement of the rules adoption and information on training are [here](#).

Source: WorkCompCentral