BPR Project Webinar Session Participant Comments

Carrier, Self-Insurer & TPA Session, September 25, 2013

To improve readability, participant comments have been edited for punctuation, spelling, and typographical errors.

Do you agree with what has been discussed so far today? What else do you think is not working well?

- Long waits for reimbursement to claimants.
- Lag in scheduling hearings timely.
- The system seems to encourage people to stay out for longer than necessary.
- Reserved decisions take too long.
- We need reform for VFBL as we are still at $400.00 per week for TT.
- Understand metrics on delays in initial indemnity payments but I don't believe statistics reflect those claims where appropriate medical has been produced to justify an indemnity payment.
- Making doctors responsible, as they are holding up timely benefits to the injured worker.
- I agree with everything said so far. The diagram showed how many different interactions between stakeholders exist.
- Doctors do not understand schedules and SLU awards have tripled in dollar value recently.
- Unqualified medical doctors in the system but carrier and claimant.
- I believe the interval for employee reporting a WCI should be sharply shortened from its current two-year period.
- No responsibility on doctor's part to help with addiction, all falls to employer.
- Hold judges responsible for the Medical Treatment Guidelines.
- PPD reform did not help, but rather hurt the system.

- I agree with most. Too much paper but also health care costs with personal co-pays cause employees to file workers' compensation claims more often. Also aging work force.
- I am not surprised about some of the statistics. But I am surprised about the late first indemnity payments.
- I agree but it also encourages unneeded medical treatment.
- C-8.1 and C-8.4 process to communicate billing decisions, instead of the EOBR is cumbersome and an administrative nightmare.
- Schedule Loss of Use Awards are promoting abuse of the system. Large awards with no restrictions from work.
- Medical providers are failing the claimants! Slow and untimely filings! Treatment consists mainly of 30 day follow-up visits and meds with little else, which delays and deters claimant's return to work. The medical providers are failing all of us!
- The system is flawed because as an employer the burden of proving our case is much greater than the injured party. We are basically guilty before we are proven innocent.
- Things have gotten too cumbersome, with the Doctor Treatment Networks and the MTGs, and the convoluted C4 forms.
- Doctors directing injured workers to get attorneys.
- There have to be more incentives for injured workers to return to work and more controls on doctors who prescribe narcotics.
- Think use of EDI will help gathering data.
- We have a section on narcotic usage that is a part of the MTGs but this section is not enforced/followed by the WCB.
- No strong motivation for employees to look for work elsewhere if their employer can't accommodate permanent restrictions. Once they're classified, they've got a reliable income stream.
- Hold doctors responsible for addiction of injured worker.
- PPD did not help—seeing more push for PTD.
- State adoption of standard medical billing processes (including electronic billing) that are commonplace nationwide may make the system more efficient (CMS-1500, UB-04, NCPDP UCF).
- More resolution without hearings.
- I agree the PPD reforms have hurt rather than helped. It appears workers' compensation has become a private substitute for unemployment benefits.
- Our agency has found a significant increase in costs, and claimants are staying out for longer periods.
- Would outcomes be better if the employer/carrier directs care and holds the doctor and injured worker accountable for return to work?
- Making doctors responsible as they are holding up timely benefits to the injured worker.
- There are not as many providers performing IMEs as you have indicated. Many registered providers to not perform them and the web listing has many doctor's names that have long since retired.
- Cases are indexed with incomplete C-3 and lack of medical evidence.
- The I-stop program recently passed may help and hold the rx MD responsible.

- The Board not checking their own case file prior to imposing a 10-day deadline for carrier to file the same forms that the case file already has.
- WCL Judge should not be making the decision on a variance; it should be the medical director. This should not be an option.
- Hold judges responsible for the MTGs.
- Unacceptable delay in getting doctor's medical reports, sometimes a few months.
- As a TPA proper reserving is critical. It is extremely difficult to properly reserve CAP cases when the Law Judges apparently can arbitrarily assign a LWEC.... We need better standards that everyone can follow. Not just the complicated duration guidelines.
- We have seen an increase in costs related to increased indemnity and extremely large SLUs, which don't appear to serve a purpose anymore.
- Agree the system is in need of an overhaul. We need consistency throughout the state. Have caps start from date on injury vs. MMI.
- 114a continues medical benefits even when fraud is indicated.
- Yes, I agree and disagree. The current system is dysfunctional and generally hurts those it is intended to help. When considering narcotics, I think claimants that receive meds from more than one provider, both (all) providers should be mandated to consult with one another, e.g., narcotics from one source and psych meds from another. Regardless of the cap, unless the injury is catastrophic, claimants should be mandated to seek meaningful retraining.
- There should be conciliation meetings, or more accurate proposed decisions.
- There should be more compliance with the medical treatment guidelines for everyone involved.
- Carriers see their medical costs increasing and are looking for a greater opportunity to direct and manage care.
- The PPD reforms would be effective if there was more of an emphasis on evaluating LWEC. The Board should consider the usage of independent vocational experts in providing an opinion on the matter.
- SLUs are not based on updated medicine.
- Change the forms for NY.
- Communication needed between WCB examiner and TPS/Carrier examiner vs. email.
- System benefits employees to an extreme level. While we believe injured employees should receive benefits, there seems to be abusers who are not tracked or investigated.
- Ten days to pay an award is truly too short.
- EDI roll out is a step in the right direction but most states complete the EDI roll out gradually starting with FROIs and then gradually adding other requirements. Current EDI is pushing much—maybe too much—initially through the system.
- The WCL Judges need to be more knowledgeable.
- MTGs work well when parties adhere to the guidelines enforced in 2010. However, there are issues when physicians do not follow the guidelines as instructed, e.g., appropriate forms and not communicating information appropriately as instructed on the WCB website.
- Law judges need to be consistent in all district offices.

- We're spending thousands of dollars each year on Permanency Opinion IMEs that cannot be determined by anyone... ridiculous ratings that no one can figure out!
- Agree on the 10 day award pay. The electronic notice of hearing process should be examined.
- My indemnity has tripled in recent years.
- Injured worker's benefits are held up mainly by untimely or incomplete doctor's reports.
- Letting the injured worker not show up for ongoing IME appointments and no repercussions.
- Agree with the comments regarding the inflation of SLUs over the years. Serious consideration needs to be made to reform the existing MTG/SLU Guidelines and weeks of awards to come in line with the advancement of medicine and the improved outcomes. Special considerations at this point appear antiquated.
- Medical forms remain cumbersome—need EBill mandate for doctors; benefits and investigation of claims regularly delayed due to doctor inefficiencies.
- It would be beneficial if we could direct care.
- There needs to be something in the system to address "frequent flyers", those with multiple comp claims over the years and basically address what has become a profession for some people to live off of the system.
- I agree with inconsistencies in decisions in the different NYS areas.
- We should consider going back to the old system of split benefits in SLU cases where there is none or minimal lost time due to the injury.
- MTG filings should all be centralized online so all parties can eliminate the paper.
- Echo the comments concerning the C8 medical billing comments.
- Employer directed care would be a good option.
- A closed formulary in conjunction with MTG may prove an effective means of ensuring doctors are prescribing opioids only when absolutely appropriate and only for timeframes where the patient shows actual improvement as a result of the opioids.
- In evaluating LWEC, the carrier is reliant upon receipt and review of the VDF-1 form. This enables a rough estimation of LWEC that can be used to reserve. Has the WCB considered a mandatory timeframe in which to have injured workers submit this form? We are seeing that the form is often filed late in the claim when permanency is in the midst of litigation.
- Make a financial incentive to doctors to get injured worker back to work.
- Yes, self-insureds have seen an increase in costs; SLU need to be controlled. Employees going back to work without restrictions do not make sense and promotes fraud.
- AWW—should there be regional AWWs?
- Adopt AMA Impairment ratings system rather than current rating system. Easier to use by all stakeholders and is used in most states.
- Priori WCRI studies show that where the payer is able to direct care, outcomes are better, return to work is faster, and rates for employers go down.
- Judges don't seem to review medical documentation thoroughly before making decisions. We have seen many large SLU awards for employees that are still working full duty.

- WCB does not give much credence to our IMEs, which is frustrating and costly. They are approving these IME doctors, not us. This should really be looked at... if they aren't going to consider the IMEs why are we spending so much money? We are forced to get these opinions for nothing.
- eClaims should improve communication with WCB, but still doesn't address the delays in injured worker and injured worker attorney communication.
- AWW— should there be regional AWWs just like we have regional medical fee schedules?
- There should be an enforced requirement for all providers to provide a W9 in order to comply with federal regulations.
- Let's move to a direct care state.
- MTGs may work well if parties adhere to the guidelines; however, there are many instances where physicians do not follow the guidelines as instructed or try to circumvent carrier's right to respond by sending the MG-2/ C4 Auth to the WCB but not the carrier. What is being done to address bad acting physicians?
- Allow the employer to direct treatment such as most states do.
- Doing away with 25a now sticks the carrier on all the older claims payment and reserving—MTGs help in those cases to a degree and with little or no rate increase.

We have looked at what's not working well with the system. But let's also spend a few minutes talking about what does work well with the workers' compensation system?

- eCase is an excellent system to review claims correspondence and file status with the State.
- The pharmacy network provisions work well and should remain in place.
- Central repository for all forms.
- Assessments need to end. It makes no sense to have us fund our own reimbursements and fund these State Departments. Again, another ridiculous expense that makes no sense. Think about these assessments and compare our payments vs. our reimbursements... crazy!
- The MTGs have helped control medical costs, particularly with chiro and physical therapy.
- eCase works well as long as you are a POI.
- eCase, although the Board's scanner really needs a higher resolution.
- eCase is a wonderful system!
- Consolidation of forms and less forms than 20 years ago.
- eCase is very beneficial to the insurance carriers and TPAs.
- With the exception of ECF, there is not a lot that works well.
- Implementation of MTGs to move towards evidence-based medicine vs. anything goes approach.
- EDI will be a benefit once it is fully in place.
- Issuance of subject numbers is great.
- Compliance unit at WCB and Health Provider Admin unit—excellent resources for outside parties.

- MTGs does have some "teeth" and has limited tx when not appropriate.
- Too much paperwork.
- eCase should be made available to doctors so they can have a full and complete understanding of a case.
- NY MTGs benefit both the employers and the injured worker as they ensure proper treatment with the goal of reaching MMI in a timely manner.
- With the exception of ECF, there is not a lot that works well. Most claimants seem to think NYS WC is "Win for Life". That needs to change.
- eCase should be made available to the treating/attending physicians.
- The Judges seem to do a decent job at hearings looking out for injured employees who are not represented. At times they do a better than the 1-800 lawyers who seem to live at the Board.
- eCase but it logs off too quickly after only a few minutes of inactivity.
- Limiting lifetime medical benefits was a good improvement.
- MTG Director's office, call a fair shot and are responsive to all inquiries. Great resource when questions asked.
- The implementation of the new medical guidelines seems to be working well.
- The Medical Guidelines are excellent if they are....
- Increase of the max and minimum comp rates was the right thing to do.
- Agree MTGs assist with combating excessive pt and chiropractic tx.
- Also, kudos to the Medical Director's office.
- Allowing all unions to participate in alternative dispute resolution will not only allow employers, their employees, and carriers to work together instead of against each other, but will also offer relief to the WCB employees and budget, as they would no longer be required to deal with these claimants.
- MTGs when followed and enforced.
- I disagree regarding eCase being made available to the treating/attending physicians as I believe it may lead to tailored reports based on hearing outcomes. If providers are given access, it should be limited to the medical section only.
- I see claimant attorneys as one issue for slow first payment. They often just create a bottleneck.
- Making sure the MTGs specifically related to pharmaceutical treatment that involves opioid and narcotic use is being adhered to. Also, placing maximum limits on the amount, frequency and duration of these types of drugs, as well as drug screening, tapering off measures, and accountability on behalf of the physicians.

What do you think would be one impactful change that would benefit injured workers in the system?

- A roadmap of the process for descriptions of levels of disability and how that affects their $.
- The WCB implements policies that they actually enforce clearly and consistently across the spectrum.
- Quicker authorization for medical exams.

- Focus on safety/accident prevention in the workplace.
- How about web-based claims filing whereby the workers' compensation carriers obtain the claims from the WCB?
- Doctors need to be a partner with us to obtain the correct treatment timely and to pay the injured worker timely.
- Better educate providers on the correct forms so an incorrect form submission is not holding up treatment.
- Look at the impairment ratings to cover all body parts that are not covered. It is too grey.
- Employer directed care.
- Reserve classification for truly the most serious of cases. Low back and neck injuries should be subject to a schedule loss of use finding.
- It would be helpful if the injured worker's medical provider would actually set a plan that would get the injured worker better.
- Reduce the amount of forms. Too many in NY. This is cumbersome to the adjuster.
- Consider use of mediators for more effective resolutions as is done in other states.
- Doctor releasing insand [*sic*] medical reports, would allow timely benefits paid, proper treatments authorized.
- The WCB should be proactive in sponsoring and promoting return to work initiatives.
- Agree with speeding up first indemnity payment—but need doctors to speed their communication to do so.
- Additional vocation programs for RTW would be beneficial for claimants.
- Job retraining, functioning vocation rehab.
- More stringent time requirement for medical providers to produce updates in a more timely manner.
- Put controls in place that restrict use of narcotic drugs.
- Better medical management including reduction of reliance on narcotics. Employer directed care!
- Providers need to be held accountable! We can't process what we don't have and they often cause the delays.
- Claimant attorneys should *not* be allowed to prohibit constructive contact with their client. Employer directed medical care should be allowed with some limitations.
- Make NY a self-executing system where the agency is only involved if there is a dispute—other states manage to issue benefits timely, get the AWW calculation correct, and get workers back to work without involvement of the state.
- A more streamlined approach to determine entitlement to PPD, which does not require a hearing as is available in other states.
- Set up an electronic system so that the first treatment is sent to the carrier immediately.
- Allow employers to direct medical care.
- Many noted eCase works well. Has thought been given for document distribution to the proper parties directly through eCase? POIs are coded and can be assigned an e-mail address. When an entity submits a form, it could then be distributed to the proper parties directly from the Board.

- Workers' compensation can be a win win if we got back to basics. Too many non-work injuries and conditions are now considered work related because a symptom appeared at work.
- The WCB should be proactive in sponsoring and promoting return to work initiatives for claimants.
- Adopt a formulary that ties in with....
- WCB should be paying more attention to narcotic over use.
- The claimant should always work with nurse case management.
- Disallow injuries caused by the employee due to their own negligence.
- Study what works in other states.
- A change in return to work/retraining expectations. I think we do a dis-service to the injured worker when there isn't a true expectation of return to work. The measure for work search is nominal and more procedural vs. focused on helping the injured worker return to a new form of gainful employment. It doesn't appear the WCB actually expects workers to seek work in alternate careers.
- Encourage training for alternate jobs to prevent dependency on system and to promote return to workforce.
- Make NY a direct care state—expectations are clear and agreed to.
- Yes, I agree and disagree. The current system is dysfunctional and generally hurts those it is intended to help. When considering narcotics, I think claimants that receive meds from more than one provider, both (all) providers should be mandated to consult with one another, e.g., narcotics from one source and psyche meds from another. Regardless of the cap, unless the injury is catastrophic, claimants should be mandated to seek meaningful retraining, claimant attorneys should not be allowed to prohibit Voc.
- Appeals should be decided promptly. It should not take a year for appeals to be ruled upon.
- Requiring providers to submit burden of proof that does not consist solely of their own reports.
- Eliminate the c8.1 form for every single medical bill. Attach the c7 to it.
- Eliminate ATF deposit.
- Too many non-work related injuries and conditions are considered work related because a symptom appeared while at work. Physician's need to be more attuned to this!
- I agree with previous statement regarding the system getting back to the basics. Not all conditions are work related.
- Nurse case managers should always be able to work with the injured employee, even if their attorney says they can't. NCMs work for the benefit of all.
- Too many consequential injuries/illnesses that unnecessarily expand claims and increases costs.
- Directing care can be done well; however, we insure volunteer fire fighters and for the most part there is no one in the district office at the fire department to direct tx so can be problematic.
- Agree on consequential injuries... the claimants are being allowed to just keep adding body parts... enough is enough! Example is left should injury... SLU award...

consequential right shoulder... another SLU... I've got one in the works that will cost us over 200,000 for two SLU awards... crazy!
- You reference timely first payment of compensation as a major problem you want to resolve. This is almost always due to lack of a medical report. If the employer was able to direct initial care, this may significantly affect this statistic.
- Large SLUs without surgeries do not make sense when claimants return to work without restrictions.
- Agree about SLUs and full duty RTW. Sends a bad message to coworkers.
- Agreed, this is a huge problem right now with doctors coming back with enormous awards that make no sense.
- Directing treatment is beneficial in the states I can. However, if it is a fee schedule state as well you lose the good doctors. I found spending now on quality care saves us in the long run.
- There needs to be much more claimant accountability with regard to labor market attachment.
- Two years is too long an interval for employees to be able to report work injuries. Too much can happen in that length of time, unrelated to employment. One year is plenty of time for a person to attach blame to an injury event.
- Agree—even less—six months.
- Especially in rural areas where low wages are prevalent.
- Many doctors do not use C-4s, difficult to determine if there is disability and what degree.
- To-be: The WCB should be the central repository of medical claims and the carriers should retrieve medical claims from the Board for consideration to start. Next, the Board should be informed of the carrier's actions on all claims handled.
- Employees should have only six months to report an accident.
- Two years is far too long to allow a claim to be submitted and still be timely.
- The WCB should also take a neutral stance. It seems every communication from them is anti-business. I love getting a request for payroll with a threat of penalty.
- I agree and we need to do even more investigation, IMEs, etc. to either deny or accept a claim reported two years later.
- I agree that the Board seems to be very anti-carrier.
- The WCB does seem to be anti-carrier or anti-employer.
- Hold conciliation meetings, or have your clerks familiarize themselves with the claimant's files.
- Claimants are given far too many opportunities to provide information and medical.
- Out of the 17 states I work with NY has the largest surety and the most claim interaction.

Do you have any questions on the BPR project phases or BPR project structure?

- Will this presentation be the same for the other webinars?
- Can you email this presentation to me?
- Can carrier representatives be part of focus groups?

- Going back to the question as to who is paying for this project? Will it have its own "Special Assessment"?
- How much involvement will insurers and TPAs have in this process?
- Who will be approving and/or implementing the BPM recommendations?
- Will this be the first study of its kind to have been conducted? If not, what have been the results, and what action was taken, and how did NY's system get to this point?
- Should carriers provide comments, answers to questions in writing?
- Could written comments also be presented at in-person sessions?
- How can you volunteer for a focus group?
- Will the BPR team take legislative action?
- Will this project just focus on fixing issues that do not require legislation?
- Will this reengineering involve review of the laws, rules, and regulations?
- Will they look at best practices in other states?
- Will committees be formed in the foreseeable future? There needs to be input from all levels.
- Is the BPR going to address statutory reform or is it solely focused on the mechanics and delivery?
- The initiative is very broad; it would be interesting to hear the specifics as to what the State wants to focus on for changes.
- Many issues being identified are legislative and not rule making.
- Are you looking at best practices in the states that were given a high ranking—to use as a model for change for NYS?
- Will the BPR include potential legislative changes as well as administrative changes?

Other Questions/Suggestions:

- Why not look at CT, compromising state that limits litigation?
- Why is the Chair absent?
- Will common questions be updated on the FAQ sections on eCase?
- Have other self-insureds and carriers seen an increase in costs in recent years?
- How can Judges ignore the laws on some issues and impose the laws as they should on other issues?
- Are Workers' Compensation Board employees required to take civil service tests?
- Anyone notice that most of the good ideas here will take legislative action and not the WCB? Maybe we need to educate the legislators.
- Will the judges continue to be appointed without any workers' compensation background?
- How do participants on this call get onto working groups and subcommittees?
- Who will make the determination on what the new system will look like and how it will work?
- When assessing the input from the various stakeholders is more weight given to any one or the other?
- How will changes, especially technology upgrades, be funded?