



## Medical aspects

# Communication

- **Assist communication among the parties**
  - Employees medical condition and treatment
  - Coordinate medical treatment with vocational rehabilitation services
- **Facilitate employees return to work**
- **Do not obtain ICD 10 numbers for or provide MDG or ODG information to insurers**

# HIPAA

- **Workers' compensation exempt from HIPAA**
  - Employee, employer or insurer do not need an authorization to obtain medical information
- **HIPAA applies to qualified rehabilitation consultants (QRCs)**
  - HIPAA compliant medical release form signed by injured worker required
  - Release required for written or verbal communication with health care providers

# Written authorization must include

- The information to be used or disclosed
- The name of the person authorized to disclose, receive and use the information
- The purpose of the disclosure
- The potential of re-disclosure of information
- An expiration date (one year within the date of the employee's signature)
- The dated signature of the individual
- A statement concerning the right to revoke the authorization

# Data privacy, Minnesota Rules 5220.1802, subpart 5

- A rehabilitation provider shall not engage in communications with health care providers about an employee without the written consent of the employee.
- If emailing an employee's private information, do so via encrypted email with no identifying employee information in the email subject line.
- A rehabilitation provider shall request only the information and data that will assist the parties in developing and carrying out the rehabilitation plan.
- Personal data must be disposed of in a secure manner.

# Report of work ability, Minn. R. 5221.0410

- Primary health care provider must complete within 10 days and must provide a copy to the employee
- Can be on a form prescribed by the commissioner or a form that contains the same information
- Work ability must be based on the most recent medical evaluation
- Employee shall submit a copy of the work ability report to the employer or insurer and QRC.

# Return to work planning, Minn. R. 5221.0420

- **Health care provider cooperation with return-to-work planning**
  - Communicate with employee, employer, insurer, QRC and the department
  - Release employee to return to work at earliest appropriate time
  - Ten days to respond to a proposed job
- **Communication with assigned QRC**
  - Health care provider must communicate with QRC
  - Valid patient authorization required
  - Health care provider must respond to QRC once in a 30-day period

# Reimbursement for communication, Minn. R. 5221.0420, subp. 3

- Health care provider may not require pre-payment from QRC or employee
- Health care provider must bill the employer and insurer for QRC meeting using service code 99199
  - Services are not subject to the 85% payment limitation
- Health care provider may charge a reasonable amount for requested records (for example, copies of exam notes, MRI scan reports)



# Collection of excessive charges, Minn. R. 5221.0500, subp. 3

## For compensable claims

- Medical provider may not collect or attempt to collect payment from employees for medical services, upon being informed it is a claimed workers' compensation injury, that exceeds the maximum amount in the rules or services related to the admitted injury
- In event the health care provider attempts to collect payment, a penalty may be assessed (Minnesota Statutes 176.136, subdivision 2a, effective Aug. 1, 2021)
  - Employee or their attorney should call 651-284-5052 to ask how to file a complaint

# Primary health care provider, Minn. R. 5221.0430

- Directs and coordinates medical care
- Employee treats on two occasions
- Employee may have only one primary health care provider at a time
- Employee chooses primary health care provider unless covered by a certified managed care organization

# Change of provider, Minn. R. 5221.0430

- May change the treating physician once within the first 60 days
  - Does not need approval
- After 60 days, further changes must be approved by insurer, Department of Labor and Industry or Office of Administrative Hearings
- May transfer care due to provider retirement, death, cessation from practice or referral

# Certified managed care organization, Minn. Stat. 176.1351

- Employer must notify employees of the certified managed care organization, of which there are only three approved in Minnesota: Corvel; GENEX Services, Inc.; and HealthPartners
- **Note:** While there are medical groups employers and insurers contract with that call themselves “managed care,” employees cannot be required to treat with those doctors or groups

# Certified managed care organizations, continued

- Employees treat with a network physician
  - Employees may treat with own established physician
- Disputes must go through the certified managed care organization processes
- Certified managed care organization case manager and QRC shall communicate with each other

# Disability case management companies

- Are not registered with DLI and often located in a different state
- Are contracted by employers to handle non-occupational and workers' compensation injuries or illnesses
  - May refer files for disability case management services
  - Cannot refer workers' compensation cases for rehabilitation consultation
  - Will require invoices be sent to them and agreement that the rehabilitation file is their property (the later a violation of state law)

# Medications, Minn. R. 5221.6105

- Generic medications must be dispensed
- Employer may designate a pharmacy or network of pharmacies the employee must use
- Pharmacy must be located within 15 miles of employee's place of residence

# Treatment parameters, Minn. R. 5221.6050

- Provides guidelines for reasonable treatment and to facilitate communication between health care provider and insurer
- General parameters – treatment must be medically necessary with the goal that the employee’s clinical findings and functional status are continuing to improve
- Specific parameters – medical imaging, low back, neck, thoracic spine, upper extremities, reflex sympathetic dystrophy, medications, hospitalization, surgical procedures and chronic pain management



# Treating physician prior notification, Minn. R. 5221.6050, subp. 9

- Prior notification is the responsibility of the health care provider requesting the treatment
- Insurer has seven working days to:
  - approve or deny the treatment
  - request additional information
  - request employee obtain a second opinion
  - request an independent medical examination be scheduled.

# Treating physician prior notification, continued

- If no response within seven working days, treatment is deemed approved.
  - For unnecessary insurer delays, the employee or employee's attorney should file a Medical Request form with exam note attached
  - DLI Alternative Dispute Resolution can help with this Work Comp Campus filing

# Independent medical examinations, Minn. Stat. 176.155

## If independent medical examination requested by insurer or employer:

- must be within 150 miles of the employee's residence;
- employee can have personal physician at the examination at own expense; and
- insurer or employer must pay reasonable travel expenses, including:
  - mileage and parking;
  - lodging; and
  - meals

# Independent medical examinations, continued

- Insurer or employer must pay lost wages
- Claim petition – 120 days to complete examination and served on employee
- If employee refuses to be examined, their monetary benefits may be suspended
- Independent medical examination physician offers an opinion, but is not the employee's treating physician. Do not use independent medical examination physical limitations, recommendations, etc. as part of employee's rehabilitation plan, even if parties agree; treating health care provider must recommend them

# Additional information

## Access to medical data

- [Revisor medical statutes](#)

## HIPAA

- [Health information privacy](#)

## Medical services and treatment parameters

- [Revisor statute, fees for medical services](#)

# Additional information, continued

## Certified managed care plans

- [Revisor statute, managed care](#)
- [Revisor statute, managed care for injured workers](#)

## Medications

- [Revisor statute, treatment](#)
- [Revisor statute, medications](#)

# Additional information, continued

## Independent medical examinations

- [Revisor statute, medications](#)

## Definitions of commonly used terminology

- [Revisor statute, definitions](#)
- [Definitions, scope, active treatment, chronic pain](#)

## Minnesota Health Information Clearinghouse

- [Resource for health related information](#)

Thank you