



NAMISAP

National Alliance of Medicare Set-Aside Professionals

Cost Mitigation in WCMSA's

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Today's Discussion

- Claim Strategies to Reduce MSA Exposures
- Clinical Strategies to Reduce MSA Costs
- MSA Allocation Strategies and Challenging the WCRC

Claim Strategies to Reduce MSA Exposures

Opportunities will be missed if there is no plan for MSA success from the beginning

- Know what injuries/illnesses are accepted/compensable and are being treated
- Know which injuries/illnesses are pre-existing, comorbid conditions unrelated and have not been claimed
- Know which injuries/illnesses are pre-existing, comorbid conditions unrelated and have been claimed to have been exacerbated/aggravated by the mechanism of injury

Claim Strategies to Reduce MSA Exposures

- Know which injuries/illnesses and are being treated by an authorized treating physician
- Know which injuries/illnesses and are being treated by an unauthorized, primary physician
- Know which injuries/illnesses have been claimed and denied
- Know what injuries/illnesses have been reported as compensable via Section 111 mandatory insurer reporting (MIR)
- Challenge

Claim Strategies to Reduce MSA Exposure

Know what therapeutic modalities, surgeries, Rx's are associated with the compensable injuries being treated

- Each physician office visit includes a treatment plan
- Know how to determine which Rx's are related to the claim and which Rx's are listed for all medical conditions in each clinic/office visit
- Look up unfamiliar medical terms or prescriptions
- Assign to field case management to sort out
- Partner with a PBM who will answer questions
- Use UR/IMR to determine what is medically necessary

Claim Strategies to Reduce MSA Exposure

Case Study-Resubmission after court order received 7 years after initial submission

- 57 year old female with multiple claimed injuries.
- Compensable Diagnoses: **cervical spine and lumbar spine injuries**. Treatment included chronic pain management via multiple medications for short and long term. Key cost driver identified as:
- **Celebrex, Tramadol, Lyrica (off label) and Ambien (Zolpidem)** prescribed

Claim Strategies to Reduce MSA Exposure

- Pre-submission assessment identified multiple medications with Lyrica prescribed for off-label use and Ambien for sleep.
- Intervention: Causation Hearing. Judge agreed that **Lyrica** was prescribed for diagnosis denied. Judge ruled that the **Ambien** use was not related to the workers' compensation claim. Judge's order clearly excluded both Rx's.
- Other claimed conditions/injuries were also excluded **hypertension and bilateral complex regional pain syndrome of upper extremities.**

Claim Strategies to Reduce MSA Exposure

Original MSA Projection = \$239,890.00

New MSA Projection = \$125,471.00

Recognized Savings = \$114,319.00

Claim Strategies to Reduce MSA Exposure

*Do not pay for treatment of a denied
or unrelated injuries/illnesses*

- Paying for treatment of a denied condition is almost impossible to undo and is a cost inadvertently added by claim handlers that is an expensive mistake.
- Payment for a treatment or a condition is considered by the WCRC as an acceptance of responsibility by the employer, TPA, WC carrier
- Adhere to the payment without prejudice period, if applicable

Claim Strategies to Reduce MSA Exposure

- A transactional backing out of a provider payment by requesting a refund for an inadvertent payment may be possible if brief
- A subsequent court order showing that a condition was not claimed or not causally connected to the claim may become necessary
- For claim transactions, especially for fully denied claims, be sure payment for IMEs are labeled as medico-legal costs rather than as medical treatment.

Claim Strategies to Reduce MSA Exposure

Clean up medical records

- Electronic medical records are often cumulative and include an individual's health information gathered across multiple healthcare organizations, specialties, over a long period of time.
- To avoid inclusion in the MSA of inactive or discontinued surgeries, medications, and other irrelevant treatment modalities, have them removed.
- Obtain written clarification from the authorized treatment physician(s) and have treatment plans with suggested or pending treatment options that are no longer viable or recommended removed or clarified.

Claim Strategies to Reduce MSA Exposure

Case Study-Spinal Cord Stimulator

71 year old male with injury to lumbar spine.

Diagnoses: lumbar herniated nucleus pulposus, chronic low back pain, post laminectomy. Treatment included chronic pain management via epidural steroid injections with recommendation for spinal cord stimulator and the following prescription therapy:

- Acetaminophen / Hydrocodone 325 MG/10 MG
2/Day (short acting opioid)
- Zolpidem 5 MG 1/Day (insomnia)

Claim Strategies to Reduce MSA Exposure

Case Study-Spinal Cord Stimulator

- **Concerns:** SCS recommendation included in medical records appears to be no longer necessary due to effective pain management via consistent prescribing pattern for prescription medication therapy.
- **Intervention:** Contact treating physician who made SCS recommendation. Obtain written documentation that prescription medications were effectively managing symptoms. As such, SCS no longer medically necessary or recommended as future treatment.

Claim Strategies to Reduce MSA Exposure

Case Study-Spinal Cord Stimulator

- MSA was prepared with written documentation to support removal of SCS from future treatment recommendation.
- Savings totaled **\$249,000.**

Claim Strategies to Reduce MSA Exposure

*CMS allocations that are too high
make it impossible for a case to settle*

- Long tail WC claims with medicals that remain open are expensive
- The “Long tail” means that premiums collected today must cover losses for years to come.
- The claims tail is impacted by an MSA that is too high for the claim to settle leaving medicals open indefinitely.

Claim Strategies to Reduce MSA Exposure

- When an injury occurs, “reserves” set to cover the estimated cost of the injury until the case is closed is inadequate.
- The more long-tail claims an employer has, the higher the premiums.
- The rising costs of these tail claims has a significant impact on both carriers and employers in terms of cost of insurance today and future reserves.
- High WCMSA costs are a significant contributing factor.

Claim Strategies to Reduce MSA Exposure

Avoid inaction, have a claim strategy to reduce MSA costs from beginning to end!

WHAT'S
YOUR
PLAN?



The RX Factor





The RX Factor: A Case Study

DOL: 02/00/2010

Injury: Distal Fibular Fracture w/ORIF

DOB: 00/00/1968 Rated Age: 52

Venue: Illinois

Current Diagnosis:

- Complex Regional Pain Syndrome Lower Limb
- Constipation, Drug Induced

The RX Factor: A Case Study

Current Medications:

- Amitiza-8 mcg capsules (constipation)
- Silenor-3 mg tablets (insomnia)
- Nucynta ER-200 mg tablets (pain)
- Norco-10/325 mg tablets (pain)
- **Medical Cannabis (not prescribed by WC MD)**

The RX Factor: A Case Study

Medicare Set-Aside Allocation (12/00/2016)

Future Medical Costs	\$ 193,558.82
Future RX Costs	\$ 814,860.00
Total Future Costs	\$1,008,418.82

The RX Factor: A Case Study

RX	Qty/Yr	Cost/Ea	Cost/Yr	Years	Lifetime Total
Amitiza	720	\$06.60	\$ 4,752.00	30	\$142,560.00
Silenor	540	\$14.70	\$ 7,938.00	30	\$238,140.00
Nucynta ER	720	\$18.82	\$13,550.40	30	\$406,512.00
Norco	1,440	\$00.64	\$ 921.60	30	\$ 27,648.00
Total Cost					\$814,860.00

The RX Factor: A Case Study

- Civil Suit Filed (\$\$\$ expectations)
- SSD filed within 1 year of DOI
- Medicare Disability Entitled 3/2013

The RX Factor: A Case Study

Looking back:

- 1st RX for pain issued 10/10/2011
 - Refill issued 11/03/2011 and then
 - Refill issued 09/04/2013

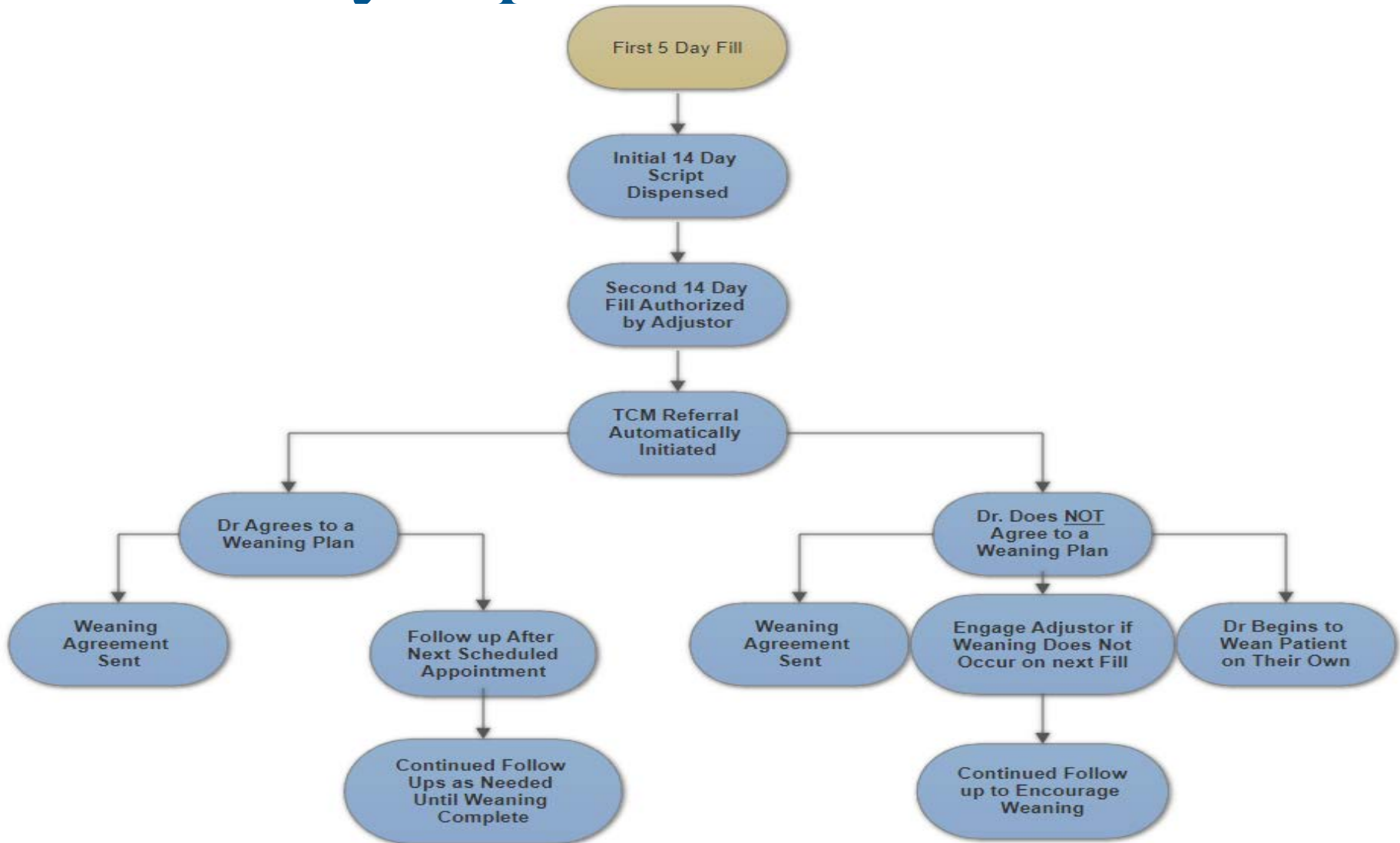
- 1st RX for insomnia issued 10/22/2014
 - Sleep Apnea not challenged
 - Negative drug screen



The RX Factor: What We Know

The most effective way to prevent the development of substance abuse is to intervene early, *before* the condition can progress.

Early Opioid Intervention



Early Opioid Intervention

- Physicians are establishing treatment plans
 - including weaning agreements
 - often pre-surgery
- Creates accountability with the TX Physician
- Gets everyone on the same page

“The Initial Hit List”

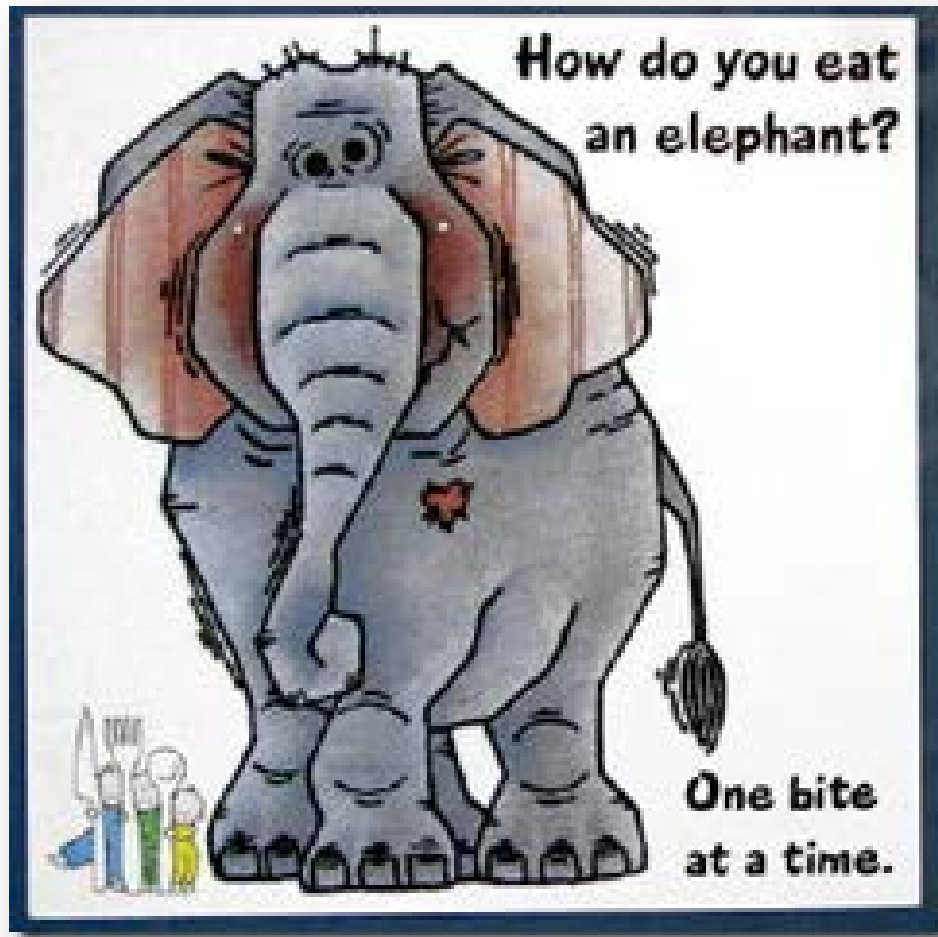
- Acetaminophen/Codeine
- Codeine Sulfate
- Gabapentin*
- Hydrocodone/APAP (Vicodin, Norco)
- Oxycodone HCL
- Oxycodone/APAP (Percocet, Endocet)
- Tramadol HCL*
- Tramadol/APAP*

“What about those OLD Claims?”

PHARMACY
COST
MANAGEMENT

“What about those OLD Claims?”

- Work to amend current RX regime
 - Alternative RX (brand vs generic)
 - Weaning Contracts
 - Regular Drug Screens
- It's a slow process!



PREVENTIVE MEASURES

Preparation:

- Steps to take before preparing an MSA:
- Identify Medicare trends that may impact your case
- Anticipate potential exposures
- Utilize cost containment processes to reduce overall costs

All steps to take before MSA preparation and while still taking the interests of Medicare into consideration.



OUNCES OF PREVENTION

- Determine dollar exposure *before* the claim is referred for an MSA
- Offer cost containment suggestions

OUNCES OF PREVENTION

For example, GI medications:

Proton-Pump inhibitors:

- Generic Omeprazole 20 mg (brand name Prilosec)
 - \$3.70 per pharmacy OR \$6.62 AWP
- Generic Esomeprazole 40 mg (brand name Nexium)
 - \$4.55 per pharmacy OR \$0.99 AWP

Both Omeprazole and Esomeprazole are available over the counter for about \$0.36 per pill in a 20 mg dosage.

PRE-PREPARATION CONSIDERATIONS:



- Medications
- Unrelated body parts and treatment
- Identify Cost Drivers - compound medications, name brand medications, prosthetics, durable medical equipment (catheters), items not covered by fee schedules

POTENTIAL PITFALLS – WHAT TO LOOK FOR

Costs associated with obtaining CMS approval include all of the following:

- Increases in treatment frequencies
- Inclusion of unreasonable treatment
- Inclusion of treatment for asymptomatic body parts
- Increases in surgical costs
- Unreasonable Durable Medical Equipment (DME) costs
- Medicare Part D issues



INCREASES IN TREATMENT FREQUENCIES & COSTS

- Physical Therapy
 - Inclusion of physical therapy regardless of lack of recommendation or none provided in recent years.
- Psychiatric Follow-up and Psychotherapy
 - Inclusion of psychiatric follow up and psychotherapy in extensive quantities
 - Treatment for asymptomatic body parts
 - Diagnostic Studies
 - Inclusion of x-rays and MRI scans for body parts initially injured but no longer being treated

MORE PITFALLS....

- Durable medical equipment at unrealistic costs.
- Prosthetics at invoice rather than actual paid or fee schedule. Maintenance at 10% of invoice annually.
- Non submission considerations



TIPS FOR OBTAINING CMS APPROVAL INCLUDE THE FOLLOWING:

- Provide CMS with all of the necessary information
- Identify any potentially problematic issues upfront
- Clarify any outstanding issues
- Avoid CMS development requests by anticipating the possibility and providing information upfront
- Deal with development requests as quickly as possible
- Outline legal issues affecting MSA at submission



Thank
you!