

Let's Get Texas Injured Workers Healthy and Back to Work

TMA physicians believe that injured workers and employers in Texas deserve clinically appropriate and cost-effective health care.

We also believe health care for injured workers should be accessible in a timely manner within a reasonable geographic proximity.

Workers' Compensation: Improvements Are Necessary

When employers and employees are unable to find a physician to treat their work-related injuries, it hurts the Texas Workers' Compensation program. Texas employers pay high workers' compensation premiums relative to other states and deserve better. These employers expect their employees' work-related injuries to be treated appropriately and efficiently. However, the reality is that most physicians do not and will not accept workers' compensation patients — not because of the patients or employers, but because of the administrative hassles and burdens created by the workers' compensation insurance industry.

Physicians want to treat injured workers. They want to take care of people who work hard to service, build, and protect our communities. They deserve quality health care.

However, physicians cannot afford the additional administrative burden and costs inherent in the workers' compensation system. Because physician practices also are small businesses, they cannot afford the hassles and gaming of the workers' compensation insurance industry. Several strategies the insurance industry has used of late to deny paying claims include:

- Inappropriate use of treatment guidelines,
- Improper use of peer review timeframes,
- Tedious preauthorization requirements, and
- Arduous prospective and retrospective review authority.

In addition to the abuses cited above, workers' compensation health insurance companies steadily have gained authority to implement business strategies that reduce their financial risk and cost. This includes regulated price controls and piecemeal denial authority, which allow them to control what health care services injured workers receive and when, regardless of the treating physician's opinion.

TMA is asking the Texas Legislature to implement reforms to the workers' compensation system that allow injured workers to receive quality care by a physician without interference from insurance personnel — many of which do not have the patient's health as their first priority. Much of the interference by insurance companies is unnecessary because the system has guidelines in place to identify and eliminate providers who overutilize medical services.

Prescription for Improving the Workers' Compensation System

Obstacles inherent in the Texas workers' compensation system must be removed so it is easier for physicians to embrace their role: to deliver quality medical care. Unnecessary interference by insurance personnel dictating what medical care physicians can provide to injured workers only serves to keep physicians out of the system. Injured workers who are vital to the Texas economy deserve better. Now is the time to improve the Texas workers' compensation system for Texas employers and their employees — our patients.

TMA encourages lawmakers to consider these four recommendations to improve the current system:

1. Improve job-related communication between employers and physicians,
2. Eliminate inappropriate discounts of physician fees for health services provided to workers' compensation patients,
3. Remove burdensome preauthorization requirements, and
4. Eliminate gaming in the workers' compensation system by carriers.

1. Improve communication between employers and physicians.

The primary goal of physicians who treat workers' compensation patients is to return healthy workers back to their jobs. Physicians can discuss with patients when and what to expect when returning to work. However, they rarely communicate with their patients'



Physicians Caring for Texans

The workers' compensation system should be clearly defined, fair, simple to understand, accountable, and easily accessible to all parties involved.



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employers about return-to-work opportunities. TMA requests legislation that would require employers to give the injured worker's treating physician a job description upon injury. The job description would help the treating physician assess which duties the patient can and cannot perform after treatment, based on the physician's diagnosis of the injury. This communication will assist with return-to-work and treatment plan communication.

2. Eliminate the inappropriate discounting of physician fees for services provided to workers' compensation patients.

With the introduction of managed care to the workers' compensation system, there has been a surge in the brokering of contractual discounts for physician services for both network and non-network health services. Network fees are controlled by the physician and health plan network contracts. Non-network fees are dictated by the State's Medical Fee Guidelines. Third-party payers and rental networks are applying contractual discounts to non-network patient services when a physician has a managed care contract with a lowest payment provision.

These entities operate in hidden silence and are difficult to hold accountable. Currently, many non-network bills are being re-priced without physicians' knowledge. Documentation from the carrier does not offer an explanation to the physician on why his or her payment was reduced, and it is almost impossible to identify the multitude of relationships that exist with carriers and third-party discount vendors. There is no "transparency" in the current system.

TMA physicians are asking the legislature to put a stop to these improper business practices. We recommend that when a physician treats a non-network patient for which there is no specific contract between the physician and the patient's carrier, a discount may not be taken. Instead, the insurance carrier shall pay the fees required by the Medical Fee Guidelines.

3. Remove burdensome preauthorization requirements.

Physicians must go through a tedious process to gain preauthorization before they can treat certain conditions for a workers' compensation patient. This preauthorization process is performed to justify the physician's recommended care to the insurance carrier. Once the carrier approves the care, the physician again has to undergo a retrospective review to determine payment.

This pre-and-post review process is time-consuming and involves extra paperwork and administrative resources. If insurance carriers preauthorize a treatment, why should they be allowed to deny payment for services they preauthorized? Why do insurance companies often need additional information after the patient receives the care that they pre-approved? In other words, why should insurance companies be allowed to practice medicine and game the system by preauthorizing services then denying payment? With treatment guidelines controlling overutilization, preauthorization and retrospective denials of approved services should go away just like Medicare's. Those physicians who continually practice outside the guidelines or behave inappropriately should be reviewed post-treatment and not allowed the honor of treating workers' compensation patients.

4. Eliminate peer-review gaming in the workers' compensation system by carriers.

Currently, the statute gives an insurance company three days to initiate a peer-to-peer review process. Often, a physician is contacted on the third day at the final hour and required to give a response that day, or the requested service is automatically denied. An improved process would require an insurance company to initiate a physician peer-to-peer communication on the first day, not the last. In addition, the peer-review physician needs to contact the patient's physician before the carrier denies the procedure. The carrier having a recorded message line could provide physicians the means to leave a message about why the procedure should be done.