Nuts and Bolts of Workers' Compensation

C. Wade McGuffey, Jr., Esq.



G O O D M A N M c G U F F E Y L I N D S E Y & J O H N S O N LLP

Workers' Compensation Subjects

Treatment covered Authorized Treating Physician Authorization of treatment Change of ATP Payment for medical services ♦ IME's Basics of non-medical benefits



I. Treatment Covered

Medical, surgical, hospital care, etc. Prescribed by a licensed physician Reasonably required Appear likely to: + effect a cure give relief, or restore employee to suitable employment



A. Determination of Necessity

♦ Medical issue

Tests for causation covered Rule 205(b)(1)(b)(4)



B. Prescription Drug Coverage

- Generic prescriptions required
- Prescription required to state WC
- Doctor's handwriting required for brand specific
- Payment under the Fee Schedule



C. Communication

No confidentiality

- + O.C.G.A. 34-9-207
- Form WC-207, medical authorization
- HIPPA excludes workers' compensation

 Arby's Restaurant Group, Inc. v McRae, GA Supreme Court
 Testimony/Depositions



II. Selection of Authorized **Treating Physician** Panel of Physicians Failure to post Panel Employee can select any physician Employee may change to any physician once **Rule 201(c)** Fine up to \$1000 **WCMCO**



A. Panel of Physicians

Traditional panel or Conformed panel

- May accept the services of a physician selected by the employer
- Or may select another physician from the panel

♦ WC MCO

 Receive services in the manner prescribed by the contract



A. Panel of Physicians

Traditional panel

- At least 6 unassociated physicians
- One orthopedic
- Maximum 2 occupational clinics
- One minority physician (Rule)
- Conformed panel (Rule 201(a)(2))
 At least 10 unassociated physicians
 General surgeons & chiropractors



B. Requirements

Post in prominent places;



Take reasonable measures to assure employees:

- Understand function and right to select a physician
- Receive assistance in contacting panel physician



C. Authority of ATP No prior authorization required Arrange for consultations extraordinary or other specialized \diamond services Only ATP may make referrals Must approve release to return to work



D. Controverted Claims

Can not restrict medical treatment
 Rule 201(b)

Later compensable
 Employee picks one treating physician
 employee required to give notice
 Allowed one change without approval



III. Treatment Authorization

- No pre-authorization required by ATP
 + Rule 205(b)(2)
- If pre-authorization requested Rule 205(b)(3):
 - Verbal request customary but no response required
 - + WC-205:
 - An authorized medical provider
 - By fax or email to insurer/self-insurer
 - Response required within <u>5 business</u> <u>days</u>
 - Failure to respond authorizes the treatment or testing
 - But!

Challenges to ATP Treatment

- ♦ UR, UCR & peer to peer reviews
- State Board Peer Review
 - State Board peer review available
 - Available for charges not contained in the Fee Schedule that are disputed as not UCR
 - Fee Schedule reduced fee
 - Coding issues
 - Mediation then available



IV. Change of ATP

One change on the panel

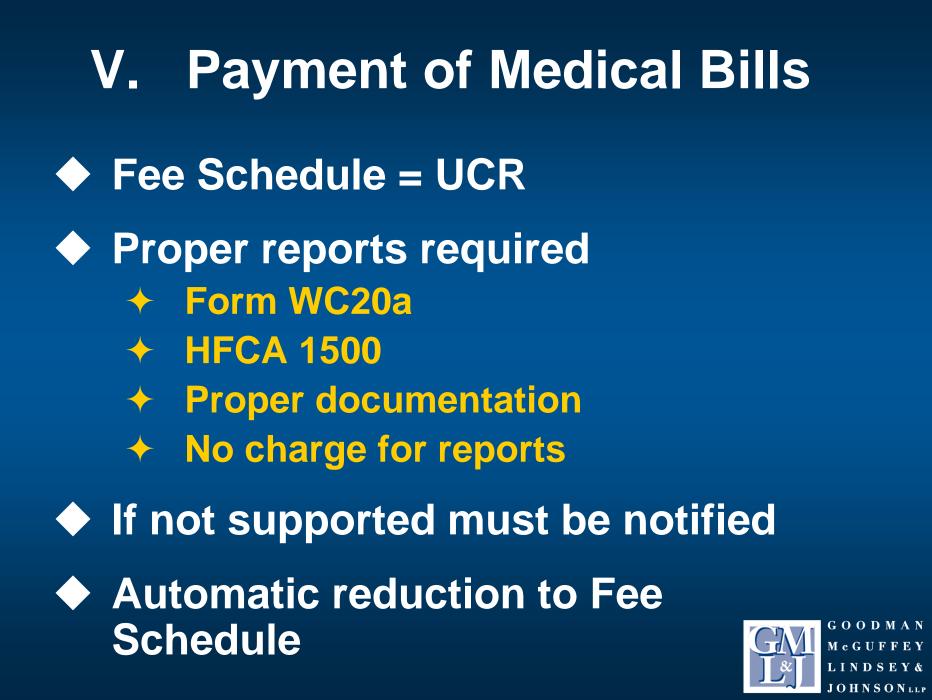
Order from the State Board required

Rule 200(b)

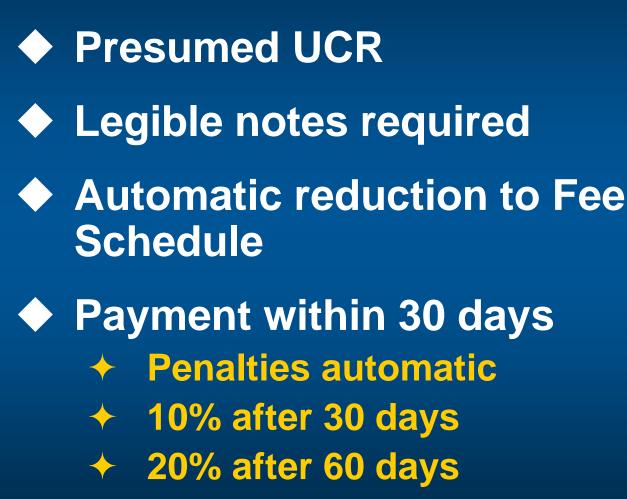
- Agreement Order {WC-200a}
- Dispute requires motion or hearing

♦ Estoppel





Fee Schedule



Plus 12% interest after 90 days

VI. Independent Medical Evaluations

- Employer and Insurer requested
- Claimant requested
- Types authorized
 Medical, psychological
 ECE can be a part of an
 - + FCE can be a part of an IME
- Payment governed by Fee Schedule
- No physician/patient relationship



A. IME by Employer and Insurer
 No limit to the number allowed

Requires 10 days notice to employee

Refusal or obstruction prohibited



B. IME by Claimant

One time only

- Within 120 days of last weekly benefits
- Within Georgia or 50 miles

Physician designated by employee

Notice in writing in advance

Special rules

- Repeat tests only if costs less than \$250
- Pre-authorization required notice to insurer
- Pre-payment limited to \$600



VII. Indemnity Benefits

- Temporary total disability (TTD)
- Temporary partial disability (TPD)
- Permanent partial disability (PPD)
- Catastrophic injury
- Permanent total disability



A. Temporary Total Disability Benefits

- Maximum \$500/week (\$525 7/1/13)
- Maximum 400 weeks
- Ends
 - Actual return to work
 - Release to unrestricted work
 - Return to baseline in aggravation injuries
 - Change of status



B. Temporary Partial Disability Benefits

- Maximum \$335/week (\$350 7/1/13)
- Maximum 350 weeks
- Ends
 - Making previous wage
 - Return to baseline in aggravation injuries
 - Change of status



C. Permanent Partial Disability Benefits

- Maximum \$500/week (\$525 7/1/13)
- Scheduled value for body members
- Based on permanent impairment rating
 - Under AMA Guides, 5th ed. only
 - Assigned at MMI
 - Paid only when no other benefits are due



D. Catastrophic Benefits

- TTD benefits to retirement age
- Not permanent but no status change

Type of injury

- Spinal cord injury, amputation, severe brain injury, significant burns, blindness
- * "Social Security" category
 - Can not do previous work
 - > Not qualified for any other work

E. Physicians Role in Benefits

ATP/Consulting/IME

- Work status
 - Initial work restrictions
 - Review of job description
 - Return to Work
- Permanent impairment rating
 - Obligation of ATP
 - No additional charge allowed



Questions??

Wade McGuffey 404-264-1500 wmcguffey@gmlj.com

