

Claims Working Group

Meeting Summary

To: Participants of the Claims Working Group
Date: April 26, 2024

RE: Summary of March 26, 2024 Meeting

Discussion Topics

At the meeting, the following topics were discussed.

1. First Quarter 2024 Review of Diagnostics

Staff noted that the preliminary proportion of permanent indemnity claims for accident year 2022 continues the declining trend observed since 2016, albeit at a slower rate. Working Group members discussed the potential causes.

Staff noted that the total number of liens filed per quarter has been relatively stable over the last three years, with some increases observed during the third and fourth quarters of 2023. Working Group members noted an increase in post-termination cumulative trauma claims, which tend to have more liens. Additionally, they observed a decrease in settlement rates, possibly due to the rise in liens. Furthermore, there has been an increase in litigation, particularly in the Los Angeles area.

The ratio of incremental closed indemnity claims to prior open indemnity claims has generally increased over the most recent calendar year but has not recovered to pre-pandemic levels. A couple of Working Group members noted an increase in follow-up medical-legal reports, slowing down the process and impacting settlement rates. Additionally, an increase in litigation, denials, and multiple cumulative trauma claims were highlighted as potential factors impacting the settlement rate. Working Group members also shared observations indicating that Southern California applicant attorneys may be representing more claims from Northern California due to the availability of virtual hearings.

Staff presented the average paid medical severities on open claims over the most recent calendar year, showing modest increases. Working Group members shared observations that more delayed surgeries from the COVID-19 pandemic are now being performed and this could be contributing to higher medical costs.

2. Update to the Medical Severity Trends

Staff summarized the latest information on medical severity patterns by type of service based on the medical transaction data through 2023. Staff noted that the overall medical cost per claim in 2023 remained similar to 2022, driven by a 4% increase in the paid per transaction and a 3% decrease in the number of transactions per claim. Below is feedback from the Working Group, along with context:

Meeting Summary

Date: April 26, 2024

- For pharmaceutical costs, staff noted the new pharmacy fee schedule currently going through the rulemaking process and the potential increase in the pharmacy dispensing fee in the new schedule. Staff shared with the Working Group the preliminary initial cost estimates on the increased pharmacy dispensing fee and asked if the Working Group anticipated any behavioral changes related to the new pharmacy fee schedule. The Working Group shared that the increased pharmacy dispensing fee may affect the negotiation between Pharmacy Benefit Managers and individual pharmacies but not sure how the increased dispensing fee would affect pharmacies' dispensing patterns.
- For inpatient costs, staff noted a long-term downward trend in the number of hospitalizations per claim since 2012 except for a couple of years, reflecting fewer hospitalizations in the system over time. One Working Group member suggested exploring inpatient hospitalizations compared to the usage of ambulatory surgery centers, as they observed a shift in medical services from inpatient settings to ambulatory surgery centers, mostly driven by advances in medical technologies.
- For outpatient costs, staff noted an increase in paid per transaction in 2023, potentially driven by the higher inflationary adjustment for facility care in the fee schedule. The Working Group suggested exploring the trends of services provided in the ambulatory surgery centers in future updates.
- For the HCPCS service category, staff noted larger increases in the paid per transaction in 2022 and 2023, potentially driven by higher inflationary adjustments in the Durable Medical Equipment, Prosthetics, Orthotics & Supplies (DMEPOS) fee schedule in the recent two years and higher average costs of home health service. The Working Group suggested the increased costs of home health services could be the result of an aging workforce and comorbidities of older workers.

3. Retrospective Evaluation of the 2021 Medical-Legal Fee Schedule

Staff summarized the retrospective evaluation of the new Medical-Legal (ML) Fee Schedule that became effective April 1, 2021, based on three years of post-schedule change payment data in 2021 through 2023. Staff noted that in the third year of the new fee schedule, the average ML payment per claim was similar to 2022 but was 57% higher than the average for service year 2019, which is not impacted by the new schedule or the COVID-19 pandemic. The key drivers of the higher costs in 2023 compared to 2019 are the costs of record review for additional pages and an increase in the number of ML services per claim, concentrated in the follow-up ML evaluations.

Staff noted that the higher record review costs in 2023 were driven mostly by more pages per record. The Working Group was not surprised to see that the higher costs of record review continued in 2023.

For the number of ML services per claim, staff noted a continued increase in follow-up evaluations in 2023, which could be related to the longer time frame allowed to request a follow-up evaluation following a comprehensive evaluation under the new fee schedule. A Working Group member shared that lower-quality ML reports from newer qualified medical examiners may also be a driver of increased follow-up evaluations.

Meeting Summary

Date: April 26, 2024

For psychiatric ML evaluations, staff noted a decrease in the number of psychiatric ML evaluations per claim in 2023 compared to 2022, and the decrease is generally consistent across regions in California. The Working Group shared, anecdotally, that the number of psychiatric ML evaluations continued to increase in 2023. Staff responded that the different trends at the statewide level may reflect preliminary data in service year 2023 and that staff will continue to monitor once the medical transaction data for 2023 is complete.

4. Summary of Current and Pending Legislative, Regulatory and Judicial Actions as of March 19, 2024

The Working Group reviewed the legislative, regulatory and judicial actions provided in the meeting materials.

A Working Group member mentioned that one issue to continue to monitor is the backlog of cases where the WCAB had issued a grant-for-study order between October 1, 2018 and October 1, 2021 that are impacted by the *Earley* decision.