



"Our mission is our passion.
Our passion
is North Dakota's workforce.
To us, it's personal."

State of North Dakota
Workforce Safety & Insurance

Independent Medical Examination Audit Report

Conducted by

DA Dronen Consulting
6690 Promontory Drive
Eden Prairie, MN 55346
(952) 294-8558

February 1, 2007

Table of Contents

Subject	Page
Introduction	
I. <i>Background</i>	3
II. <i>Audit Perspective</i>	3
III. <i>Scope & Objective</i>	4
 Executive Summary	 5
 Detailed Reports	
I. <i>Review of IME policies and procedures</i>	13
II. <i>Review of role - WSI staff and the IME vendors</i>	19
III. <i>Review of IME related costs</i>	24
IV. <i>Review IME case files and associated outcomes</i>	27
 Alternative Strategies Review	 32
 Appendix	 33

Introduction

Background

DA Dronen Consulting, a Minneapolis based medical and risk management consulting firm, was selected to perform an audit of the Independent Medical Examination (IME) process for the State of North Dakota Workforce Safety and Insurance (WSI). WSI is an exclusive, employer financed, no-fault insurance state fund covering workplace illnesses, injuries, and death. WSI serves as the sole provider and administrator of the Workers' Compensation system in the State of North Dakota.

The audit request was initiated following Workers' Compensation Review Committee meetings in the fall of 2006, in which injured workers, claims analysts, and legislative representatives offered testimony regarding multiple issues, including the Independent Medical Examination. At that time Mr. Sandy Blunt, WSI Executive Director/CEO, offered to seek an external audit of the Independent Medical Examination process. Further discussions with the WSI Board Audit Committee resulted in approval to move forth with an audit of the IME process, policies, and procedures to be conducted by an independent party. A formal Request for Proposal was created and submitted to various qualified medical evaluation specialists with knowledge and expertise of the Workers Compensation IME process.

Audit Perspective

DA Dronen Consulting began engaging the IME audit process on November 28, 2006. Subsequent site visits to North Dakota included time spent at the WSI facility to gain security access to electronic claim files, meetings with WSI staff, and interviews with various other stakeholders involved in the IME process. Site visits to North Dakota by the DA Dronen Consulting audit team occurred on December 13 and 14 of 2006 and January 3 through 5 of 2007.

DA Dronen Consulting was informed and acknowledges that no previous internal or external audit has been performed on the WSI IME process. The attached authored report from DA Dronen Consulting, dated February 1, 2007, concludes findings for the scope of this project.

Introduction

Scope & Objective

The scope of the IME audit was procedure, process, and operational in nature and covered IME and Record Review claims for the period of July 1 of 2005 through July 30 of 2006. This period was originally presented with 123 IME and Record Review claims. A random selection claim file rate of 25% was taken as a sampling from the presented 123 claims; resulting in 31 IME's to review in depth. Additionally, a few selected cases, outside the selected time period, were reviewed due to issues brought forth by specific claimants at a recent Workers' Compensation Review Committee Meeting in September of 2006.

We conducted extensive direct interviews with various stakeholders, including WSI claims, legal, nursing and medical staff. We also met with a representative of CARE, AFL-CIO representatives including a WSI Board member, a State Legislator, plaintiff legal counsel, and IME vendors. We explored the WSI website, in particular to review any written information available to injured workers.

The financial portion of this audit refers to current fees paid to IME vendors or companies for the IME's or Record Reviews performed, and summary of additional expenses associated with IME's due to reimbursements to injured workers for travel or other costs they incurred out-of-pocket.

Specific objectives of the IME audit were as follows:

- A review of WSI IME policies and procedures;
- A review of the appropriateness of the role assumed by WSI staff and the vendors providing these program services;
- A review of IME related costs;
- A review of a sampling of IME case files and associated outcomes with recommended process improvements; and
- Recommendations outlining alternative strategies for WSI in the improvement of existing IME processes, policies, and procedures.

Executive Summary

The executive summary is intended to provide audit perspective, and highlight on a summarized basis, the significant findings discussed throughout the body of this detailed audit report. Care should be exercised in reaching conclusions solely based on a review or reading of this summary. It is necessary to read the specific detail sections and/or the report in its entirety to obtain the breadth of the background, ramifications, and recommendations relating to each issue and/or finding.

Beginning in late November of 2006 through January 2007, DA Dronen Consulting worked at attaining the most accurate information about the State of North Dakota's IME process, especially around those areas that individual stakeholders have expressed concerns. Several stakeholders, including WSI, labor, C.A.R.E., Workers' Compensation Review Committee Board Member, OIR Division, and a defense attorney offered valuable input regarding the IME process, their role, and experience with outcomes.

An analysis was derived from a report period of all direct Independent Medical Exams and Record Reviews by the IME vendors for the period of July 1 of 2005 through July 30 of 2006. WSI identified a total of 123 such services, and certain aspects of the audit looked at financial averages from all files. Our more detailed quality analysis of the IME process and services came from a randomly selected sampling of 25% of these 123 cases.

For purposes of reporting our findings, the audit team utilized the below listed tools to gather data and information. In our full report you will find the following:

- Listing of all IME's or Records Reviews performed during the timeframe, with claim number and claimant name removed.
- Interview Questionnaire Guidelines
- Claims Analyst Survey
- Claim Procedure Quality Rating Tool
- IME Provider Report Rating Tool

In addition, we have created spreadsheets to document the data we analyzed regarding IME vendor utilization, travel of injured claimant to attain services, and fees. They are listed as:

- Provider Utilization Analysis
- IME Vendor Fee Analysis
- IME Financials

After analyzing all data and interview questionnaire feedback the audit team has identified the following findings.

Relevant Findings

1. There is widespread concern about the availability of IME providers that are more local or regional.

This concern was raised by labor and plaintiff attorney representatives and discussed at length with WSI staff. This issue presents a difficult and yet real fact that it has been an on-going issue to find local or regional physicians to conduct an unbiased IME.

Recommendation

We do not have a good solution for the inability to develop a local or regional IME provider panel within the scope of a competitive IME vendor program. There are likely IME vendors who would be willing to work cooperatively with the stakeholders to develop a panel that includes health care providers practicing in North Dakota, but an important part of the success of this type of effort would be the willingness of skilled, confident providers who are willing to perform these services.

The involved parties may seek to build a significantly different process to resolve issues currently being addressed through the IME or Record Review process. There are some successful programs around the country that have been developed. Key to the success of this approach is a solid commitment and "buy-in" from employers and employees, providers and claims people. We encourage WSI, the legislature and injured workers and their representatives to continue to explore other steps to resolve medical concerns or disputes, other than IME's. This would present an opportunity to develop a neutral panel of local experts and examiners.

In cases where disputes emerge specific to the need for surgery, expansive treatment or controversial treatment approaches, we urge the first step to be for a WSI nurse to facilitate the injured worker's access to a highly qualified physician for a second opinion.

Additionally, there may be a way to clarify and expand the role of the Office of Independent Review (OIR) in resolving medically-based disputes, perhaps, within their structure.

2. There is a sense of pessimism voiced by employees and their representatives that they can achieve a neutral or independent opinion from any IME.

There is a perception from some of the stakeholders that the current IME providers utilized are bias to WSI. Our findings show that one IME vendor represents 66% of all IME's/Record Reviews conducted. Additionally, this IME vendor has two providers that performed 32% of all IME's conducted during our evaluation period. This majority dependence on one IME vendor may be interpreted by injured workers and other stakeholders as making it difficult to maintain independent, neutral positions when performing an IME. However, as it relates to #1, there are major barriers to offering a larger panel of IME physicians if the parties are unable to develop a local panel or a different approach to dispute resolution at the IME level.

Typical complaints regarding the IME process focus on criticism of the specific IME provider, such as lack of actual time spent in the examination, lack of understanding regarding all issues, lack of knowledge of the diagnosis, and physician behavior toward the injured worker. These issues need to be addressed. We did find that many of the IME reports reflected well thought out, well documented opinions, and contained a good solid basis for the opinion rendered. A reasonable number of IME's did support the employee's position regarding the diagnosis, treatment needs, relationship to injury or ability to perform meaningful work activities.

Recommendation:

We are recommending process improvement to address these perceptions, and to provide specific follow-up for situations where injured workers and claim analysts have concerns regarding an IME examination or report. We are recommending measures to require IME vendors to document more specific information regarding time spent with the employee, and steps to avoid having the "experience" of the exam surface as the most adversarial part of the process.

3. Of all the issues and concerns relating to the Workers' Compensation System in North Dakota, the IME process is not the largest area of concern yet creates high visibility.

It became clear in our interviews with the various stakeholders that IME's are not the most significant concern out of all aspects of ND law or procedures effecting injured employees. The actual utilization of this particular process (IME's or Record Reviews) is of fairly low frequency considering the number of injuries per year. However, the IME issue may rather be a "lightening rod" for complaints because it involves a shift in power over health care issues from the employee and his/her choice of provider to claim analyst and the IME provider. Health care, exams and treatment recommendations can be very personal situations, and may hold significant value when an injured worker's medical disability or vocational benefits are at stake. Employees feel they have limited control over the IME process or perhaps even over the disputes which lead up to the use of the IME or disputes which may be initiated after an IME.

The issue of quality, effective health care is of significant importance, yet is difficult to make into a political or popular water-cooler topic. Our review identified that of the claims where injured workers had IME's, there certainly were situations where the injured employees were not actually receiving care, from their own provider, which was effective or producing a greater quality of life. Resoundingly, in our interviews, all parties agreed with the need for consistent quality care. Quality care should be based on evidence based medicine whenever possible and result in improvement, recovery from the injury, and resumption of the highest quality of life possible. However, if the injured worker does not have the information, health care services, interest, or tools to obtain better care, in a timely basis, there is the risk of the claim spiraling into conflict and poor medical and vocational outcomes.

Our retrospective review revealed that, in many cases, the injured worker had failed to recover within a reasonable timeframe, had a confusing diagnosis, and/or the treatment plan was inconsistent with best practice treatment approach for the specific diagnosis.

Recommendation

These issues will never be reasonably resolved simply through improvements in the IME process. These issues are more appropriately addressed through access to high quality and specialty care at the onset of injury or as soon as risk factors emerge. We recommend that WSI initiate an early intervention nursing assessment of at-risk injured workers – identified either by the nature of their injury or the existence of other risk factors – to help facilitate access to good care. This type of program will assist in maximizing injury care resolution through consultation with other medical providers early on in the claim process. A model that uses a combination of patient education, patient

advocacy, employee assistance protocols and quality outcomes expectations for providers is vital. The process to achieve some meaningful approaches to this will require consensus and participation from all stakeholders.

Measures to identify and reward physicians, surgeons and other health care providers who provide optimal care with good outcomes should be researched. Development of a specialty care network, particularly important when spinal surgery, shoulder surgery or long-term pain issues are involved, should be considered.

4. There is no current mechanism in place for tracking IME outcomes and overall quality benchmarks for the IME report and provider performance.

Claim analysts expressed a desire to be able to select the most appropriate IME provider by pulling up centralized information. Documentation of such outcomes would benefit the Claims Analyst in the selection of IME Providers emphasizing their qualifications, area of specialty, and positive outcomes. Outcomes measurements should include feedback from the injured worker. We are recommending a process to centralize and share outcome data with the claims, legal, and medical management staff.

Recommendation

WSI needs to explore the development of outcome data and information for IME's.

5. There is no formal process in place for handling injured worker feedback regarding IME's.

Interviews and data collected from Claims Analyst surveys revealed a need for a more formal process of handling complaints. 29% of the audited IME files demonstrated negative feedback shared by the injured worker. Of the injured workers who gave feedback (negative or positive) to Claims Analysts, 82% gave negative feedback.

Recommendation

WSI and IME vendors need to consider some way to consistently survey the IME participants and have a formal way of tracking feedback concerns and questions.

6. There is opportunity to improve the communication to injured workers regarding the IME process

Many injured workers do not understand the exact purpose for an IME and may have differing expectations. Some believe they are having a second opinion performed which has greater expectations relative to the interaction between the injured worker and the IME provider. This was illustrated when one of the injured workers who testified relative to her concerns with her IME and was unhappy with the outcome. We reviewed the case and determined that she had actually participated in a second opinion examination. This, in part, explained some of the injured workers' frustration and concerns regarding time-spent and decision making by the MD.

Recommendation

We recommend that WSI augment the existing written information available to the injured workers with clarification about the IME process. Education and information regarding what to expect from IME's could mitigate the number of complaints. This information should be included in the WSI website. Also, consider creating a definition for IME's in Chapter 92-01-02, North Dakota Rules of Procedure, Section 92-01-02-01.

7. Negative perceptions of the IME process are often avoidable.

Within the confines of the current IME system, multiple stakeholders requested a consistent standard of professionalism and improvement in the overall process the day of the examination. Issues that arose during our evaluation included the amount of time that an IME provider spends on the exam, initial greeting, provider's rapport, whether provider answered questions asked by the injured worker and whether they allowed a friend, relative or advocate to attend the appointment. There was confusion voiced by injured workers, IME providers and claim analysts regarding the policy of allowing the injured worker to bring someone to the appointment.

Recommendation

WSI should work with IME vendors and providers to create standards of professionalism. This would include utilization of a clean and professional clinic office space. In addition, there could be documentation of amount of time the IME provider spends with the injured worker, and we recommend incorporating standard questions that the IME provider must address at the end of the report: time spent with injured worker, time spent in reviewing records, and time spent in formulating the report.

8. There may be a relationship between the lack of medical case management services on a file, and the type of poor medical outcomes that lead to medical disputes regarding diagnoses, treatment and return to work issues.

During the timeframe reviewed, less than 20% of the cases requiring IME's involved vocational or medical case management services.

Recommendation

WSI could develop a mechanism for further evaluation of this issue, such as tracking outcomes of those cases where nursing/medical case management was involved, and one benchmark to track would be how often those cases needed IME's versus cases without similar case management.

9. IME vendors and providers have varied credentialing standards

Audit findings indicate that IME vendors and providers have varied means to ensure credentialing of their IME panels. Questions have been brought forth regarding the licensure of physicians conducting IME's in the state or just outside the state boundaries.

Recommendation

With continued use of IME vendors, WSI may wish to develop their own standard for credentialing licensure and specialty selection.

10. The current Claim Process for the Independent Medical Exam appears overly simple.

WSI Claims Procedure 310 (I) is incomplete when compared to 92-01-02-41, *Independent Medical Examinations*

Recommendation:

Change WSI Claims Procedure 310 (I) to align with 92-01-02-41, *Independent Medical Examinations*.

11. Fees for IME services and record reviews are not regulated.

Findings indicate variable fees for IME services and Record Reviews. Ranges in fees are certainly important, to account for the fact that time spent for these services can vary due to exam complexity and quantity of records to review. However, the lack of regulation over fees could make it difficult to utilize the most appropriate provider, if the claim analyst is faced with fee variations that make that choice challenging.

Recommendation:

Develop a standard fee schedule that is itemized by procedure and service type, and allows upward deviation in charges for more complex and time consuming cases.