

ABTSWH Recommendation, May 17-18, 2023

The ABTSWH recommends that the EEOICP implement a mechanism to evaluate the validity and accuracy of the opinions and rationales that are expressed in the reports of the Contract Medical Consultants (CMC) in the claims evaluation process, with particular attention paid to the issue of causation of disease. This process may most usefully be applied to denied claims but may also be applied prospectively to a number of claims under evaluation. This mechanism should have sufficient independence of the current method of developing and obtaining CMC opinions in order to avoid actual or perception of conflict of interest.

Department Response

Current adjudication procedures provide claims examiners (CE) with the necessary guidance to assess the weight of medical evidence in determining the validity and accuracy of medical opinions submitted by a CMC.

Additional program safeguards:

1. CE's are required to demand addl input from CMC when rationale or foundation is insufficient.
2. Program has "clearly defined mechanisms" to assure quality and accuracy.
3. Staff dedicated to quality assurance

Additional review risks duplication and delay.

Department Response

Act (EEOICPA), the Department requests that the Board provide specific guidance or references to medical health science data that can be communicated to staff or CMCs about medical standards or epidemiological data that could serve to eliminate or reduce instances of “gross errors,” as is mentioned by the Board in its recommendation rationale. This would work to improve the qualitative and probative value of medical opinions relied on by DOL to adjudicate claims.

EEOICP PM 7.1, p. 129

“Specifically, a well-rationalized causation opinion from a qualified physician is one that communicates an accurate understanding of an employee’s toxic substance exposure; discusses an employee’s medical history and pertinent diagnostic evidence; and **applies reasonable medical judgement informed by relevant, creditable medical health science information**, as to how the exposure(s) at least was likely as not significantly contributed to, caused or aggravated the employee’s claimed condition.”

“How to Reevaluate Evidence”

“A well-rationalized opinion over one that is unsupported by affirmative evidence. The term “rationalized” means that the statements of the physician are supported by an explanation of how his or her conclusions are reached, including appropriate citations or studies. An opinion that is well-rationalized provides a convincing argument for a stated conclusion that is supported by the physician’s reasonably justified analysis of relevant evidence. For example, an opinion which is supported by the interpretation of diagnostic evidence and relevant medical or scientific literature is well-rationalized. Conversely, an opinion which states a conclusion without explaining the interpretation of evidence and reasoning that led to the conclusion is not well-rationalized.”

Department Response

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