



BWC Settlement Update Sessions 603 & 633

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Settlement Philosophy

Settle the right claim, for the right value, at the right time, under the right circumstances.

Right Claims

- Requires a holistic approach to identifying and understanding the claim
- I/Ws overall health
- Employment circumstance
- Impact of settlement

Right Time

- Requires a level of confidence that future costs are predictable
- Ability to establish a fair settlement value

Right Value

- Based on:
 - Projected length of benefits/rates;
 - Types, quantity and costs of treatment;
 - Probability of those benefits continuing.

Lump Sum Settlement (LSS) Enhancement Team

- Comprised of BWC staff, injured worker representatives, employer representatives and third-party administrators
- Three phases
 - Phase 1: Complete – Internal Focus
 - Phase 2: Ongoing
 - Phase 3: TBD

Interested Party Collaboration

- Pre-permanent total disability settlements
- Indemnity-only settlements
- Medicare set-aside
- Settlement negotiations/authority
- Structured settlements
- Rated age

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Why Settle as an Employer

- Ability to control costs
- Replace reserves with settlement amount
- Remove barriers and distractions between the IW and yourself

How to Settle a Claim

- Determine the right claims to settle.
 - Assistance is provided by BWC Employer Service Specialists at each BWC office
 - May also seek legal council or use a Third Party Administrator

Settle for the Right Value

- As the employer you may choose one of four options on the C240
 - A. Employer agrees with the settlement terms on the C240
 - B. Employer does not agree with the terms but is agreeable to LSS and will participate in settlement negotiations

Settle for the Right Value

- C. Employer agrees to settlement, but does not wish to participate in the negotiations process.
- D. Employer does not wish to settle this claim.

Settlement Evaluation

- BWC will make an independent evaluation of the claim for settlement.
- Considerations are given for both medical and indemnity benefits
- Claims specialists drive the process

Settlement Evaluation

- Thresholds
 - If the settlements medical projections exceed \$15K a nurse is required to review the medical
 - If there are any vocational or return to work issues a rehabilitation specialist will review the settlement

Settlement Evaluation

- (Thresholds continued)
 - All settlements over:
 - \$10K require a legal review;
 - \$25K require service office roundtable review;
 - \$100K require executive roundtable review;
 - \$200K require administrator sign-off.

What is New?

- Medicare
 - Section 111 of the MMSEA, December 2007, mandated all group and non-group health plans (BWC) to report all claims of Medicare eligible IWs, for whom the insurer admits ongoing responsibility, commencing 1/1/2011.

Medicare

- Penalties for non-compliance: \$1,000/day/claim, now capped at \$5,000.
- BWC has reported ~ 167,000 claims since September 2010.

Medicare and Settlements

- Conditional payments
- Certification
- Medicare set asides
 - Rated age
 - Structured settlements

Conditional Payments

- Conditional payments are those CMS makes where it believes we should reimburse Medicare.
 - To date, we have received preliminary and actual recovery requests > 100 letters, ~\$1.0m.

Conditional Payments

- BWC is just now receiving “Rights and Responsibilities” letters based on the ~167,000 claims we filed.
- Conditional payment letters are expected to increase over the next couple of months.

Conditional Payments

- BWC will seek conditional payment requests prior to settlement to ensure:
 - All **Liabilities** are understood by each party;
 - Impacts on reserves and premiums for the employer;
 - Impacts on medical projections for the IW.

Medicare Certification

- BWC is currently in the process of trying to get permission to self certify settlements
- Medicare would accept BWCs settlements and hold us harmless
- If not BWC will hire vendors to assist in the certification process.

Medicare Certification

- All Medicare eligible injured workers, where the settlement is greater than \$100,000 and the medical component exceeds \$25,000
- Medicare eligible injured workers
 - Age 65 and above
 - 24 consecutive months of SSD
 - End stage renal failure

Medicare Certification

- All settlements where the injured worker is soon to be Medicare eligible and the value exceeds \$250,000
- Soon to be Medicare eligible injured workers
 - Age 62
 - Currently on Social Security Disability (SSD) or have requested SSD

Medicare Set Asides

- MSA Letter on all settlements >\$25K
 - Requires acknowledgement of Medicare Responsibility
- Other options are available to IWs to have others administer their medical payments

Rated Age

- Impaired life expectancy for an IW based on:
 - IW's current age;
 - Lifestyle habits (tobacco, alcohol, etc.);
 - Injury information;
 - Co-morbidities;
 - Family history.

Why Will BWC Use Rated Age

- Industry best practice
- Involves many life companies
- Allows for structured settlements
- Provide a more credible and defensible settlement
- Required by Medicare

When Will RA be Used at BWC

- Rated age will be used anytime considerations are given for lifetime indemnity payments (PTD or Death), whether currently allowed or not, and in some cases where an IW is seeking lifetime medical benefits.

Rated Age Exam

- IW will be required to submit to an examination by a physician of their choice
- Examining physician will create a medical packet that includes all current treatments, medications and diagnosis' outside of workers comp

Rated Age Vendors

- BWC will certify vendors
- The physician will send the medical packet to a rated age vendor chosen by the IW
- BWC will send a medical packet to the vendor on the BWC claim(s)
- These vendors will provide BWC with rated ages from life companies

Application of Rated Age

- BWC will average the rated ages given to us to determine the IW's current rated age and remaining life expectancy.

Structured Settlements

- The rated age vendors can offer a structured settlement to the IW or their representative.
- Structured settlements have five different areas funds:
 - Lump sum of indemnity;
 - Annuity;
 - Attorney fees;
 - Medical payments;
 - Administration fee.

Why Structured Settlements

- All funds go into interest bearing accounts
- Interest is tax free
- Moneys are federally insured up to 500K
- The interest can be built into the settlement to bridge gaps between parties

Questions

BWC Programs

Looking to reduce costs and protect your work force?

Learn more about BWC's incentive programs and safety services by visiting us online at

ohiobwc.com.