

MANAGING THE CLAIM
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Objectives

- ▶ Recognize the multiple steps that may occur during the life of the claim
- ▶ Identify steps to use in managing cases of Temporary Total Disability
- ▶ Identify practices used to manage long-term disability cases
- ▶ Understand appeal rights and agency involvement in process

SIMPLE INJURY

- ▶ No controversy
- ▶ No dispute
- ▶ Time loss not expected beyond COP
- ▶ No potential third party liability
- ▶ Authorization for medical expenses up to \$1500
- ▶ Short Form Closure or "C-File"

Beyond Short Form Closure

- ▶ Requires development of claim
 - Medical expense exceeds \$1500
 - Compensation for wage loss
- ▶ Surgical intervention
- ▶ Continued limitations
- ▶ Intervention from DOL
- ▶ Condition improves - returned to regular duty
- ▶ Permanent limitations-Permanent Job Offer

DETERMINE WORK CAPACITY

- ▶ Evaluation of current medical
 - Work status documents
 - Office notes
- ▶ Intervention from OWCP
 - Additional medical from attending MD
 - Reasons or issues
 - Request for SECOP
 - SECOP review by attending MD
 - Weight of evidence - OWCP
 - IME/Referee

TEMPORARY TOTAL DISABILITY (TTD)

- Have tentative return to work date
- conservative treatment
- medical update(s)
- therapy notes
- test reports/results
- Surgery
- Nurse intervention
- Other conditions
- Complications

ADDITIONAL CONDITIONS

- ▶ Pre-existing or occurring after DOI
 - Relative to procedure or accepted condition
 - Consequential
 - CA-2a for inclusion in case
- ▶ Unrelated condition(s) but after DOI
 - Concurrent
 - Consider in affording suitable work
 - Supporting medical evidence

CONSEQUENTIAL CONDITION

- ▶ CA-2a
- ▶ Statement from employee and physician to consider
 - Objective medical to establish causal relationship
 - Diagnosis
- ▶ Not work-related until accepted

Long-term Disability (expected RTW)

- ▶ Anticipate RTW less than 6 months
- ▶ Periodic Rolls (PR)
 - Office visits
 - Therapy appointments
 - Test reports
 - FCE (Functional Capacity Evaluation)
 - Work hardening
 - Transfer FEHB

LONG-TERM DISABILITY (RTW uncertain)

- ▶ More than 6 months disability anticipated
- ▶ MAJOR surgery
 - Home health care
 - Other medical conditions
 - Therapy
 - Complications

NOW WHAT?

MANAGING CASE

- ▶ Arrange for receipt of medical information
- ▶ Review and monitor the information
 - Suspense next office visit
 - Review therapy progress notes
 - What issues, if any, does claimant share with therapist
 - What activities are performed outside of workplace
 - Offer work activities to MD for consideration
 - Coordinate RTW

SAME OLE' MEDICAL

- ▶ Narrative
 - Brief
 - Repeats prior note(s)
 - subjective
- ▶ Work Status
 - Repeats prior work status
 - Current date
 - preventative

Break the Cycle

- ▶ Evaluate medical information
 - Improving; declining; plateaued?
 - Objective rationale?
 - Similar or same info as prior notes?
- ▶ Compose correspondence to OWCP
 - Recap the medical information
 - Explain basis of request or argument presented
 - References or precedents to support your position

Request Assistance

- ▶ OWCP determination
 - Adequate medical evidence
 - Capacity or incapacity is objectively supported
 - Return to baseline (if pre-existing involved)
- ▶ With attending MD
- ▶ With Second Opinion (SECOP)
- ▶ Follow-up

FOLLOW-UP

- ▶ OWCP requests from Attending MD
 - 30 days to respond
 - Agency request to OWCP for response
 - Review response & act accordingly
- ▶ OWCP requests SECOP
 - Monitor for report
 - Request copy of report
 - Review...

REVIEW OF SECOP

- ▶ Conflict with attending MD?
- ▶ Review by attending MD?
 - Concurrence
 - No concurrence/no reply
- ▶ Weight of medical evidence
- ▶ Referee evaluation
- ▶ Final result-act accordingly

ACTION

- ▶ Make appropriate work offer
 - Return to work limited duty
 - Permanent job offer
 - Request termination of or benefits terminated
 - Injury/condition has resolved
 - No residual limitations
 - An employee must RTW
 - A former employee must APPLY for employment

Agency Appeal Rights

- ▶ NONE!- Limited possibility for review
 - Request OWCP District Director review
 - Sole discretion of District Director
 - Request within 30 days
 - Determined warranted by District Director
 - Mistake of fact or law
 - Changed conditions
 - May be made with or without new evidence or information
 - Request for rescission

(20 CFR Part 10-10.610)

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DENIALS AND APPEALS

- ▶ Notifications
- ▶ Limited Duty
- ▶ COP
- ▶ Employee Appeal Rights
 - Hearing
 - Reconsideration
 - ECAB (Employee Compensation Appeals Board)

Hearing-Claimant Action

- ▶ Request within 30 days of date of decision letter
- ▶ Oral Hearing (20 CFR Part 10, 10.615-10.617 & 10.621),
or
- ▶ Written Review of the record (20 CFR Part 10, 10.618)
- ▶ Additional evidence may be submitted

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Hearing –Agency Action

- ▶ Respond to notice of hearing request
 - Request copy of hearing transcript
 - Indicate agency attendance at hearing
- ▶ Attend hearing and take notes
 - Agency representative is an observer
- ▶ Review and comment on hearing transcript
 - To DOL within 20 days of date of transmittal letter
 - Copy to claimant concurrently

20 CFR 10.617e

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Reconsideration–Employee

- Employee Reconsideration Request:
- Must be requested within 1 year of date of decision letter
 - Must identify the decision and state the specific issue(s) for reconsideration
 - Employee can submit additional evidence to support claim

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Reconsideration–Agency Right

- ▶ If Senior Examiner determines a request for reconsideration warrants a merit review, the agency should be notified and in cases where there is legal argument or factual basis, application together with copies of pertinent supporting documentation, excluding medical, should be sent to the employing agency
- The Agency should be given the opportunity to submit comments/documents within 20 days of OWCP
- ▶ The employing agency should also be advised that any comment or evidence received is subject to review by the claimant.

20 CFR Part 10 (10.609a)

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Agency Response–Not Afforded

If Agency is not given an opportunity to respond to factual issues and OWCP accepts the claim based on employee's request reconsideration:

Write OWCP, request decision be rescinded, due to Agency not being provided an opportunity to respond to reconsideration request of employee regarding factual/legal argument(s) in accordance with 20 CFR Part 10 (10.609a).

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ECAB Appeal–Employee

- ▶ Usually the 'last' appeal pursued
- ▶ Based on evidence of record
- ▶ Request must be made within 180 days of date of decision letter

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ECAB Appeal–Agency

MONITOR FOR ACTIVITY

- Monitor AQS assignment to ECAB
- Monitor for return to DOL District Office
- Follow-up to ensure copy of decision received

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EXERCISES

CONTACT INFORMATION

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