



AMERICAN COLLEGE OF
OCCUPATIONAL AND
ENVIRONMENTAL MEDICINE

March 22, 2004

The Honorable Richard Alarcon
California Senate
State Capitol
Room: 4035
Sacramento, CA 95814

Dear Senator Alarcon:

This letter is to update you and your staff on some of the messages that the American College of Occupational and Environmental Medicine ("ACOEM") has given those who attended training sessions sponsored by the Division of Workers' Compensation in recent weeks. We have delivered a consistent message at ACOEM-sponsored training sessions in California, and our intent is to reinforce these concepts at future training sessions.

We have emphasized two key points:

- Our guidelines are recommendations, and are not intended as mandates; and
- Most cost savings will come from workers getting the care that is most likely to help them, as close as possible in time to their first need for that care, versus applying the guidelines as mandates.

We believe it is vital for those who use our guidelines to understand that the guidelines are not intended to serve as mandates or decrees. They are recommendations that are based on the best available evidence. We have told the various conference attendees that when a physician's request does not meet guidelines, it does not automatically mean that the request is inappropriate. It means that it is important to learn from the physician whether there is a compelling rationale for deviating from the guidelines. If there is such a compelling rationale, and if the physician's recommendation is otherwise reasonable, there is no guidelines-related reason why the request should not be approved. Further, the Guidelines have been created in such a way that, as new medical evidence is developed and evaluated, the Guidelines can be updated to ensure that they remain current with the fundamental principles of evidence-based medicine under which they were created.

However, an important word of caution is in order. The recommendations in the Guidelines are, for the conditions covered, the forms of evaluation and treatment that are most likely to help injured workers get back to health, and back to function, as quickly as possible. It is for that reason that we believe payors should insist on a compelling reason to deviate from the guidelines before non-conforming requests are approved. Requiring such a rationale for acceptance ensures that injured workers will be most likely to get the care that is truly likely to benefit them. Over

time, as familiarity with the Guidelines grows, and as practice patterns naturally conform more and more to the accepted guidelines, such requests for exceptions should become more limited to those with genuinely legitimate medical exceptions. Thus, the burdens on the "system" for processing such requests can be expected to steadily diminish.

We have stressed in our training and other communications that true cost savings are not likely to come from simply saying "no". We have pointed out that saying "no" to a request may convert the request from a medical issue to a payment and/or legal issue. What had been an issue for physicians to resolve based on consideration of clinical factors, could become a legal issue about whether a carrier has improperly denied payment for a service. We have pointed out that the costs associated with the resolution of such non-clinical issues can completely negate the savings that will occur from the improvements in clinical care that will certainly be effected when the medical care system provides necessary care as close in time to the need for such care as is possible.

In our public statements and our training sessions, we have done our best to communicate what we believe are two fundamentally important points. First, it is our belief that maximum efficiency of the workers' compensation system can best be achieved, by focusing on the needs of the injured workers and by providing optimal clinical care based on evidence-based best practices. In addition, we feel it is important for clinicians, attorneys, employers and insurers all to recognize that they share a common interest in helping the injured worker return to health and function as quickly and as safely as possible. Therefore, we encourage all those involved in the workers' compensation system to focus on their numerous shared interests, rather than on the few differences that divide them.

ACOEM greatly appreciates the trust that your legislature has placed in us. We hope that this brief summary of some of the points we have made in training sessions will help you conclude that your trust was well placed. We remain available to provide additional input and advice you believe will be helpful.

Sincerely,



Barry S. Eisenberg, CAE
Executive Director