

# Workers' Compensation

Future Trends and Potential Impacts // May 2011







In 2011, the Workers' Compensation industry will recognize the 100th anniversary of the first statewide workers' compensation law to be adopted. Since the initial legislation in Wisconsin in 1911, workers' compensation laws have evolved from a straightforward, no-fault solution for the treatment and management of workplace injuries into a complex system that is now independently regulated in every state. These regulations have grown considerably more complex, addressing clinical treatment plans, reimbursement schedules, patient direction, and more.

Workers' compensation today focuses on assuring that injured workers receive appropriate medical treatment while attempting to manage quality, cost and liabilities. The system has become increasingly more complex. While proactive risk management programs have reduced the number of workplace injuries, claim severity continues to increase. Spending on medical care has now outpaced indemnity payments.

Current trends driving claim frequency, medical costs and risk management practices are widely recognized: the economy's impact on jobs and business budgets; continually increasing costs of medical care; and the rising cost of pharmaceuticals. But what about the future? What are the emerging trends, barely noticeable today but lying in wait for the unwary?

In the following pages, experts from Healthcare Solutions identify 10 trends and their potential impact on the marketplace. As the industry enters into the next centennial of workers' compensation coverage, Healthcare Solutions will continue to offer solutions that enable injured workers to receive appropriate medical care at the lowest possible cost within the complexities created by the regulatory environment.

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## TREND

### Greater use of surgical implants

## POTENTIAL IMPACT

### Runaway pricing until cost containment strategies are adopted

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Hip and knee joint replacements are among the most commonly performed surgical procedures in the United States, according to the federal Centers for Disease Control and Prevention. Between 1996 and 2006, total hip replacements increased by one-third and total knee replacements by 70 percent. While statistics are higher for those over 65, almost 50 per 10,000 people between the ages of 45 and 64 had joint replacement surgery in 2006 – a trend that sometimes brings this surgery into the workers' compensation world.

Currently, management of surgical implant costs is in its infancy. In many states, implants are carved out of state fee schedules and are reimbursed as a percent of cost or as a percent of charges – both of which can lead to excessive costs and overuse of medical procedures.

The development of effective cost containment strategies should address a number of issues, including:

- Is the surgery warranted and is it work-related? Has utilization review shown that less-invasive methods have been tried first to resolve the injury? Does the injury arise from job activities or is it a result of other factors, such as aging or obesity?
- Is the device being used a name-brand product or is it an economical choice with comparable quality and performance? (This aspect resembles the more-familiar contrast between brand-name and generic drugs.)
- Are costs being adequately controlled, both for materials and the operation? Is pricing based on justifiable costs and smart purchasing practices, or is the insurer being forced to pay whatever the provider charges? Is the operation taking place in a high-cost hospital setting, or is a less-costly, standalone surgical center an appropriate option?

By understanding the array of factors that contribute to the impact of surgical implants on a workers' compensation program, risk managers can begin to take steps toward controlling these rising costs.

## TREND

### Changing demographics of workforce

## POTENTIAL IMPACT

Employees are more prone to injuries, take longer to recover

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Obesity and aging are changing the face of America's workforce – and driving new trends in workers' compensation medical costs because of the greater likelihood for injury and longer recovery times when workers are older and overweight. By becoming aware of the relevant statistics, employers and insurers can take proactive measures to manage the increased risk.

The Bureau of Labor Statistics reports that by 2008, 18 percent of the workforce was 55 or older, a figure expected to increase to almost 24 percent by 2018. About 40 percent of people 55 and older participate in the workforce. The significance of the aging workforce for workers' compensation is well documented. Numerous studies have found that older workers have a greater incidence of slips and falls, require additional time to heal, are more greatly impaired when injured and are subject to more restricted mobility when they return to work.

Similarly, obesity magnifies workers' compensation costs. While only 12 percent of the population was considered obese in 1990, the percentage grew to 26 percent by 2007 and is expected to reach more than 40 percent by 2020, according to the Centers for Disease Control and Prevention. Among other similar research, a Duke University study in 2007 found obese workers filed 45 percent more claims, had eight times the number of lost workdays, had 5.4 times the medical costs and caused eight times more indemnity claims costs than their normal-weight peers.

To address the problems of obesity and aging, employers and insurers can borrow a solution that has worked well in the group health industry, where wellness initiatives have proven effective. They can also partner with PBMs to manage the higher cost of medications that come from injuries to older and obese workers.

## TREND

Increased regulatory oversight of pharmaceutical practices

## POTENTIAL IMPACT

Enhanced ability to manage pharmaceutical costs

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With a 50 state system, the regulatory environment for workers' compensation is ever changing. Some of the recently proposed pharmacy regulation changes aid employers in managing workers' compensation pharmacy costs, but danger lies in running afoul of unfamiliar regulations and pricing requirements. Ultimately, risk managers benefit by partnering with pharmacy benefit managers (PBMs) who stay on top of evolving mandates on their behalf.

The current system of pharmaceutical pricing, until recently tied in many states to the Average Wholesale Price (AWP) index, is changing. Suppliers who have historically published the data are abandoning AWP, and states are searching for another pricing index to use. Additionally, states are addressing the increasing use of high-cost compound and specialty drugs through fee schedule rules, which allows risk managers to seek creative, aggressive methods for controlling pharmacy costs. Healthcare Solutions is continually developing new strategies for implementing these cost cutting fee schedule rules.

With the goal of protecting providers, and ensuring that payments are appropriate and timely, states are moving toward increasing the registration and licensing requirements for pharmacy networks. Along with this is the potential requirement in some states for PBMs to have written contracts with all customers, as well as all providers in their network.

At Healthcare Solutions, we are working closely with states in all these areas of concern to provide input on downstream effects of their decisions. Committed to appropriate clinical management that results in decreasing pharmacy costs safely and effectively, we continually monitor changes in requirements state by state and shoulder the burden of compliance for our partners.

## TREND

Increased treatment with personalized medicine

## POTENTIAL IMPACT

Higher costs, offset to an unknown degree by faster, more efficient recovery

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Personalized medicine is an emerging field that holds the promise of designing the optimum drug to treat an individual's condition. In an era when a person's genetic makeup can be determined with a simple cheek swab, the potential for customized treatment that is aligned to a person's specific genome is tantalizingly near.

Today's pharmaceuticals are a shotgun compared to personalized medicine's rifle. Doses reflect average effectiveness but may be too little or too much for specific individuals if they are fast or slow metabolizers. Sometimes multiple drugs are prescribed to cover a range of possible reactions to treatment, when a single targeted drug would be much more effective – if the physician knew the right target.

Some drugs may work effectively in one individual and have no effect in another, causing both wasted time and resources as first one treatment and then another is tried. In fact, the Personalized Medicine Coalition maintains that drugs do not help about half the people who take them.

In addition, drugs may cause adverse reactions or complications in some people that require further treatment.

In the workers' compensation world, improving treatment with personalized drugs may lead to faster recovery. With the individualized testing required for personalized drugs, costs can be expected to be higher for treatment. However, if an injured worker is able to return to work more quickly and the claim is resolved sooner, overall costs may decrease.

Risk managers can work with their PBMs to find the right management protocols to take advantage of personalized medicine as these new opportunities for improved medical treatment come into play.

## TREND

Improved treatment for traumatic brain injury

## POTENTIAL IMPACT

Opportunity to avoid total, permanent disability

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A person who receives a blow to the head may seem perfectly fine in the emergency room. CAT scans and MRIs may indicate nothing is amiss. And then, three months later, problems with thinking, perception, language or emotions may emerge that can be traced back to failing to get adequate treatment much closer to the time of injury. The result may be irreversible damage that incapacitates a person so badly that they cannot return to work.

Traumatic brain injury (TBI) is not just a problem in the workplace, of course. Every year, almost 2 million people suffer a bump, blow or jolt to the head that disrupts normal functioning of the brain, according to the Centers for Disease Control and Prevention. TBI is a contributing factor to more than 30 percent of all injury-related deaths. The most common causes are falls and traffic injuries, some of which occur on the job.

Medical experts have determined that once a window of opportunity to address the brain's injury closes, the road to rehabilitation can be long, expensive and, all too often, futile. As a result, medical care providers have developed protocols and screening tools that help identify injured people who may suffer long-term consequences. Complicating brain recovery is the use of medications that mask symptoms of neurological impairments. Often persons who sustain brain injuries have associated injuries such as fractures of the collar or long bones that result in significant pain. Emergency room providers frequently prescribe pain medications for fractures without considering that side effects of opiates can hide the often subtle signs of a worsening brain injury.

By making sure claims professionals are aware of the protocols and on the alert to watch files where TBI may be a factor, an insurer can help employers make sure injured workers get the necessary treatment in a timely way. Not only will the worker be better off, but the employer will have the opportunity to avoid costs associated with extensive rehabilitation services and permanent disability.

## TREND

Greater use of e-prescribing and digitization of records

## POTENTIAL IMPACT

Faster utilization review, more responsive treatment adjustments

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In a world where people go online to pay bills, order goods and buy airline tickets, the healthcare industry has been slow to adopt technology. Under pressure from federal reforms, however, medical care providers are increasingly turning to e-prescribing and digitization of records. In fact, prescriptions routed electronically grew from 68 million in 2008 to 191 million in 2009, according to Surescripts' National Progress Report on e-Prescribing. And, the number of physicians adopting the new technologies now represents nearly a quarter of all office-based prescribing professionals in the United States.

The advantages for patient care are tremendous. Records and diagnostic results can be shared among specialists, even at great distances and often instantaneously, opening the door to more sophisticated understanding of a patient's condition and more effective treatment plans. E-prescribing not only improves accuracy between what the doctor orders and what the pharmacist hands the patient, but it also can be linked to databases that can guide a doctor's decisions about what to prescribe by highlighting contraindications. In short, benefits of e-prescribing include immediate review of prior adverse reactions, duplicate therapies, inappropriate dosage, drug-to-drug interactions, formulary compliance, generic equivalency and electronic transmission to the pharmacy.

Insurers also benefit, especially as the use of technology becomes more widespread and national standards develop that will enable a "hub" approach for early review. One example: A doctor writes a prescription for a drug that is not on the insurer's formulary. Before the patient even leaves the office, the doctor is alerted to equally effective alternatives, changes his decision about what to prescribe, and an appropriate, insurer-covered drug awaits the patient upon arrival at the pharmacy.

Similarly, digitized health records and images from diagnostic tests can be quickly passed from a physician's office to an insurer's utilization review team. Independent medical evaluations can be arranged without delay, saving time and money that is now wasted as hard-copy records are mailed or couriered between offices.

By expanding the circle of medical care expertise available to patients and providing a more responsive system for coverage decisions, the increasing use of technology is a benefit for the injured worker, the employer and the payer.

## TREND

### Proliferation of compound and repackaged drugs

## POTENTIAL IMPACT

### Higher costs unless managed aggressively

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Over the years, pharmacy costs have been managed through formularies, drug utilization review and the use of the average wholesale price index. However, the proliferation of compound and repackaged drugs is making controlling overall drug costs a greater challenge.

Prescriptions for compound drugs may be written for a multitude of reasons, including for a patient who is allergic to inactive ingredients, unable to swallow a pill or in need of a different dosage of a standard medication. Compound drugs are made when a pharmacist or physician combines, mixes or alters ingredients to make a substance that is unique to the patient.

Repackaged drugs include prescription or over-the-counter drugs taken from initial manufacturers and repackaged by physician or clinic dispensers. The pharmaceutical product is removed from its original container and put into a new container in a different quantity; therefore, utilizing a new national drug code (NDC), label and price.

In both compound and repackaged drug scenarios, billing becomes the prerogative of the medical care provider. Charges for these medications frequently contain inflated ingredient costs that do not always comply with state pharmacy fee schedules, and rigorous review by experts can pay off in savings and significantly reduce costs.

While professional expertise should be factored into compound and repackaged prescription prices, payers have to watch out for excessive overcharging as billing practices do not always correlate to the sum of ingredients inside a compound.

At Healthcare Solutions, we partner with customers to rein in the rising costs of compound and repackaged drugs by cross-walking each prescription to the appropriate reimbursement based on original ingredients and NDC values. Utilization review is also used to make sure the dispensed drug is appropriate.

Many states are attempting to use legislative authority to regulate the dispensing of compound and repackaged drugs to ensure price equity between pharmacy- and physician- based medications. Until widespread reform is adopted, payers should consider utilizing their PBM partner to help control these rising costs.

## TREND

Growth in use of medical foods to treat conditions

## POTENTIAL IMPACT

High cost of treatments with questionable value

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The workers' compensation industry has seen an increase in the use of medical foods to treat varied disease states such as depression, sleep disorders, neuropathic pain and osteoarthritis. Although medical foods require a prescription for dispensing, they do not have to be submitted to clinical trials in order for standard pre-market FDA review and approval to take place, nor do they adhere to traditional FDA labeling requirements. This is of concern for risk managers because confusion regarding the safety and effectiveness of medical foods has created questions as to their appropriate use, especially as the cost of medical foods has risen.

Medical foods are neither traditional prescription drugs nor nutritional supplements. They are defined by the FDA as a food that is formulated to be used under the supervision of a physician. The FDA specifies that medical foods are "intended for the specific dietary management of a disease or condition, for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation."

For workers' compensation claims, the increase in the use of medical foods has been accompanied by rising costs. The California Workers' Compensation Institute estimates that the cost per medical food prescription was \$233 in the first quarter of 2009, an increase from \$184 in the third quarter of 2008. Although a relatively low cost class of medications, medical foods are expected to gain market share in coming years.

Healthcare Solutions currently addresses medical foods by restricting access through a workers' compensation formulary, although our pharmacy & therapeutics committee continuously monitors the industry for evidence of effectiveness through clinical trials and published peer-reviewed journal articles. If effectiveness is substantiated, Healthcare Solutions will modify its formularies to allow medical foods, as appropriate, for the effective treatment of injured workers.

Also on the radar are medical foods combined with existing prescription drugs. These combinations are known as co-packs because they are manufactured as a medical food and co-packaged with an existing prescription drug. Although today's medical foods and co-packs do not significantly impact pharmacy costs, we expect their use to increase over the next few years. By implementing policies that address effectiveness and safety, risk managers can support early return to work and best care goals while also managing the bottom line.

## TREND

More injuries related to distracted driving

## POTENTIAL IMPACT

Increased costs and liability

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The advent of cellular communications and the popularity of text messaging have increased general awareness of the dangers of distracted driving. Nonetheless, the statistics are startling. According to the U.S. Department of Transportation, 20 percent of all injury crashes in 2009 were attributed to distracted driving, resulting in almost 5,500 deaths and 450,000 injuries. Almost one in five distracted driving fatalities was caused by the use of a cell phone at the time of the accident.

Mobile phones are not the only distractions that are leading to more accidents and injuries on the road. Cars have become a haven for technology, with driver attention diverted to iPods docks, GPS receivers and built-in DVD players. In addition, with an increase in the use of pharmaceuticals to treat pain and mental conditions, drivers may be just as impaired as if they had consumed alcohol before getting behind the wheel.

Employers who send employees out on the road have to worry not only about the workers' compensation costs for injuries but also liability if other injuries or damages can be attributed to driver distraction. Dispatching a driver who is known to be taking medications for the management of a past on-the-job injury, or failure to have an explicit employee cell phone or text messaging policy could raise legal issues.

In addition to creating strict protocols for avoiding the use of distracting technology and driving safely, employers can work closely with their insurers, TPAs, PBMs and managed care organizations to understand treatments. They can then use this information to guide decisions about appropriate workplace driving protocol, such as use of cellular and other electronic devices while driving, or restricting driving while taking prescription pain medication.

## TREND

Advances in bionic implants to restore functions lost to disease or injury

## POTENTIAL IMPACT

Higher costs but reduced disability

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For many years, movies and TV series have looked into the future and predicted a world where injured people can be given replacement body parts to regain full functionality. Increasingly, those innovations are moving out of the realm of fiction and into reality.

One example is increasingly sophisticated prosthetic legs and arms that are being used to restore an injured person's ability to move and manipulate his environment. Leaving the days of peg-legs and arm hooks far behind, current prosthetics make running, picking up objects and other once-unimaginable feats almost routine. The next generation, already in the works, holds the promise of controlling prosthetics with the mind and neural connections rather than mechanics.

Another frontier is the eye. Recent operations in Germany have restored sight to patients by implanting chips lined with electronic sensors to send impulses to the optical nerve. Other groundbreaking work is being done to replace damaged muscles, tendons and even organs, such as the heart.

Restoring function with devices is not new, of course. Cochlear implants have been around since the 1980s. By the end of 2010, more than 70,000 patients in the United States had received one, according to the federal Food and Drug Administration. These small complex devices provide a sense of sound to the profoundly deaf and hard of hearing by sending an electronic signal to the auditory nerve.

These advances hold great promise for future treatments. Their impact on workers' compensation is the hope that someday they may help employees return to the workforce with little or no impairment.

# Staying on Top of Trends

Advancement in medicine and evolving practices within the healthcare industry can greatly impact employers and insurers who are struggling to obtain high-quality care for injured workers while containing costs. Being aware of trends and taking steps to manage the changing medical environment can be challenging.

Healthcare Solutions focuses on not only delivering the services our partners need now, but also looking ahead and identifying strategies for the future. The company looks forward to bringing the collective expertise of its leaders to the forefront in managing workers' compensation performance to enable the best outcome for each injured worker, as well as each stakeholder managing patient care.



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