Workers' Comp

The Compliance Corner: What Lies Ahead for Medical Marijuana Insurance Coverage?

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Prescription protocols for medical marijuana are changing monthly due to new studies promoting use and regulatory bodies that allow the prescription of medical marijuana in their states. Medical marijuana, sometimes referred to as “Medical Jane,” has been used for medical purposes since 1550 BC in ancient Egypt to treat inflammation. It took thousands of years to actually be able to prescribe medical marijuana legally in the United States for the same ailment. In modern history, the Food and Drug Administration (FDA) has been the gate keeper for permitting drug use in the United States. Marijuana was categorized with other illegal drugs like opium and morphine since the early 1990s. By 1970, marijuana was a “Schedule I” drug and was considered to have no medical use.

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In November 1991, the very first proposition called on the state of California and the California Medical Association to “restore hemp medical preparations to the list of available medicines in California, and not to penalize physicians for prescribing hemp preparations for medical purposes. The vote passed overwhelmingly with nearly 80 percent in favor. The state of California legalized medical marijuana in 1996” (Procon.org, 2016). In addition to the District of Columbia, medical marijuana is currently legal in the following U.S. states: Alaska, Arizona, California, Colorado, Connecticut, DC, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont and Washington. Nearly all other states have propositions on the books for legalizing medical marijuana.

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There is a large difference between the legalization of medical marijuana and the coverage of the drug under insurance policies. Aside from the workers' compensation cases in Minnesota and New Mexico (Lewis v. Am. Gen. Media), there has not been a broad acceptance by payors. This is a legal matter left to interpretation by policy and regulations. Today the FDA has not approved marijuana for medical use and it is still classified under the same umbrella with heroin, LSD and Ecstasy as a Schedule 1 drug. The latest move to change the drug class was in March 2015, when the CARERS Act was introduced to the Senate proposing to reclassify marijuana to Schedule II, recognizing the "accepted medical use." Schedule II drugs are those that can be potentially addictive like oxycodone. On June 2, 2016, the Property Casualty Insurers Association of America (PCI) issued a statement expressing their approval of the House Action on the Marijuana-Impaired Driving Study. Excerpt from National Highway Transportation and Safety Association: "PCI applauds the House Appropriations Committee for including language in its THUD report that directs the National Highway Traffic Safety Administration (NHTSA), along with the National Institute on Drug Abuse and other related agencies, to conduct a study of marijuana-impaired driving," (PCI, 2016). This commentary is on the heels of a review by PCI and NHTSA examining the use of marijuana and distracted driving leading to higher claim frequency (NHTSA, 2016).

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How regulations for casualty evolve will take time. The use of medical marijuana, even if compensated routinely, will still have challenges. Employers will need to evaluate patients who are prescribed medical marijuana for on-the-job liabilities and determine the new norm of distracted driving, with driving under the influence as a cause for the rise in claim frequency.

1. NHTSA. (2016, Feb). National Highway Transportation and Safety Association. Retrieved Jun 2016 from www.NHTSA.gov 2. PCI. (2016, June 2). Property Casualty Insurers of America. Retrieved 2016 from www.PCIAA.net 3. Procon.org. (2016, April 6). History of Marijuana as Medicine. Retrieved 2016 from www.Procon.org

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