Workers' Comp

Looking Ahead: 2020 Workers' Compensation Predictions

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The new decade has arrived and we are taking a look ahead at the regulatory and compliance trends we expect to hit the workers' compensation market this year. Keep reading to find out our 2020 workers' compensation predictions.

Workers' Compensation Costs and Severity

Over the years, we have seen emergency room visit charges continue to rise. In its most recent report, the Health Care Cost Institute reported that the average charge for an ER visit increased 176 percent in 2017. Emergency room charges have continued to increase over the years, and in 2020 we anticipate that trend will continue. On the other hand, workers' compensation injury severity has remained at the same level recently, and we anticipate that in 2020, severity will continue to remain flat in the workers' compensation industry.

Opioids

Opioids continue to be at the forefront of concern for both the workers' compensation industry and the United States as a whole. While the industry has made headway combating the overwhelming numbers of opioids prescribed to injured workers, we expect efforts to continue in 2020. Several states proposed legislation related to opioid prescribing guidelines in 2019, with a few states passing those bills. Considering how prevalent this crisis is in the U.S., we expect similar legislation and efforts to continue throughout 2020.

Legislative Changes

Not a year goes by in the workers' compensation industry without some legislative excitement, and we expect that 2020 will be no different. We are already anticipating a handful of regulatory changes that will affect the workers' compensation market. For example, we anticipate that 2020 will see an uptick in utilization review reform efforts. During 2019, California implemented new utilization review requirements, Tennessee created an advisory group to study utilization review process, New York implemented an electronic portal to handle UR requests related to their new drug formulary, and other states began informal inquiries into their UR processes and results. This year, we expect that a few more states will wade into the discussion on utilization review. Additionally, in 2019, we saw a trend across the country of new consumer privacy legislation. States have been introducing regulations to create guidelines to grant consumers rights related to their personal information. In 2020, we expect this trend will continue in many states throughout the nation. While many of these bills explicitly exempt the P&C industry from complying, insurers should still be on the lookout for potential applicability as states pass these regulations in the new year.

Potential Rescheduling of Marijuana

In 2019, the U.S. House passed the SAFE Banking Act, which would allow for financial institutions and ancillary financial services business to provide banking services to the cannabis industry. Among the bills introduced at the state and federal level is Congress's S2227/H3884, which is sponsored by several Democratic presidential candidates and would decriminalize cannabis and allow states to regulate the drug. With the presidential election just a few months away, we expect marijuana rescheduling, and marijuana in general, to be a hot topic.

Work Comp Payment and Billing Trends

In 2018, the Centers for Medicare and Medicaid Services (CSM) reported that medical billing errors have led to $230 billion in losses over the last six years. While the rate of billing errors actually decreased in the past year according to this report, they are still having a large monetary impact on the medical and specifically the workers' compensation industries. Many carriers today have begun implementing solutions in order to catch some of the inaccuracies early on in the bill review process, for example, by performing pre-payment audits. In addition to billing errors, fraud is also still prevalent in the workers' compensation industry today. The National Insurance Crime Bureau estimates that workers' compensation fraud costs the industry $30 billion each year. Specifically, some billing fraud trends we are seeing include upcoding, billing out of order, mismatching ER professional level of service or a provider using the same level of service for every single patient despite actual service provided. In 2020, we anticipate that workers' compensation claims organizations will push to shed light on payment transparency, with a specific focus on catching billing errors and identifying fraudulent billing practices.

Presumptions for First Responders

States are beginning to examine presumption laws for first responders and expanding coverage to conditions such as PTSD. With these laws, however, comes the questions of how many ailments should be covered, whether they are related to on-the-job risks and if other workers outside of the first responder definition should also be covered. This is an interesting issue that we expect more states to discuss this year.

Medicare's New Evaluation and Management Model

CMS is striving to reduce administrative burden for providers. One area of high-use coding is the Evaluation and Management (E/M) coding and payments. CMS will be aligning code changes adopted by the American Medical Association (AMA) Current Procedural Terminology (CPT) Editorial Panel for office/outpatient E/M visits. The CPT coding changes retain five levels of coding for established patients, reduce the number of levels to four for office/outpatient E/M visits for new patients and revise the code definitions. The CPT code changes also revise the times and medical decision-making process for all of the codes and requires performance of history and exam only as medically appropriate. The CPT code changes also allow clinicians to choose the E/M visit level based on either medical decision making or time. Medicare has simplified payments for E/M services by using a single add-on code describing the work associated with visits that are part of ongoing, comprehensive primary care and/or visits that are part of ongoing care related to a patient's single, serious, or complex chronic condition. This will be implemented in CY 2021.

Impact of the 2020 Election

The 2020 election is heating up, and we anticipate that regardless of the outcome, there will be implications for the workers' compensation industry. First, we anticipate that the election will continue to deepen the political divide in the federal legislature and state and local governments throughout the country. As blue states become more blue and red states become more red, it could make it harder for legislators to reach a consensus in states with slim majorities. Large majority states could see political infighting on both sides, but it also sets the stage for the party in control to push their agenda items without help from the minority party. Additionally, as the election process continues throughout this year, we anticipate that legalization of marijuana will continue to be a hot-button campaign topic, shedding more light on the cannabis debate and helping to shift the discussion out of the states and onto the national stage. Health care is also one of the top issues for voters and changes in the health care marketplace could trickle into the workers' compensation system.

Looking Ahead

As we look ahead to the rest of this year, we anticipate that in addition to what we are able to predict today, the workers' compensation industry will continue to see new challenges and trends. Check back with us on mPower as the year goes on to stay up to date with all of the trends you need to know.



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