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Weighing the Value of Cost Containment in a Workers Comp Plan

By Ellen Barre Spiegel and Bill Spiegel, Strategems Consulting / Henderson, NV

One of the buzzwords in workers compensation these days is "cost containment"—the practice of managing and mitigating the medical costs of claims. With employers and insurers being hit by ever-higher premiums, everyone seems to be looking for ways to hold down claim expenses while still delivering appropriate levels of care to injured workers.

Savvy employers demand that their file reviews include an examination of cost-containment measures. Unfortunately, many insurance brokers (and their claims specialists) interpret this to mean only that they need to verify that the claims-handler (typically a third-party administrator or an insurance company's claims department) is undertaking cost-containment efforts. Is bill review being done? Check. How about utilization review on the more serious cases? Check. Are injured workers treated by providers in a network? Check. Sounds like cost containment is A-OK.

Or is it? Yes, you've verified that your client is receiving cost-containment services—but is your client saving any money? To find out, you will have to dig a little deeper. By asking a few questions, you can show clients that you are looking past the basics—and looking out for them. You might even discover that their actual costs are quite different from what they imagined.

Cost-containment procedures

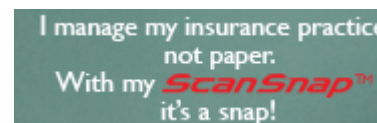
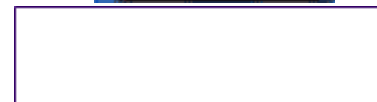
Workers compensation cost containment takes many forms, but let's look at three of the primary ones: bill review, medical provider networks and utilization review. We'll discuss issues that each presents, as well as information that must be included in cost-containment management reports if clients are to accurately assess the performance of cost-containment services.

Bill review: Medical bills are routinely audited by bill-review systems. Some TPAs route bills electronically to an in-house department or to an outside vendor for review. The vendor might be owned by the TPA or it might be independent. Other TPAs enter the bills into software programs that reduce the bills to the state-mandated fee schedule or negotiated rates. When outside vendors perform bill review, they usually do not issue payment. Rather, they give their recommendations to the TPA, which approves and issues payment. Outside bill-review firms usually charge either a fee based on net savings or a flat fee per bill reviewed.

Medical provider networks: MPNs are gaining popularity. Their purpose is to provide cost savings to employers by using high-quality medical providers who are committed to aggressively treating employees, so they can return to work as quickly as possible. These providers are paid negotiated rates, which may be above or below those of the state's fee schedule.

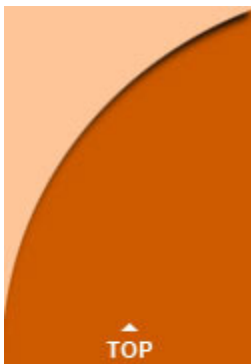
Utilization review: Claims offices can employ various levels of UR. In some states, UR even enables employers to have greater control over medical costs than they would otherwise. Various levels of UR may be performed in-house, by contractors or by outside firms. Fees for utilization review may be billed by time, with different types of

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professionals charging different per-hour rates. Alternatively, a flat fee may be assessed per course of action prescribed by a health-care professional during one visit (i.e., one “chart note”), per request for authorization or by a combination of these methods.

Is all this saving my client money?

Cost-containment services are supposed to save your clients money. Sometimes they do—but not always. Because cost containment adds layers of oversight, it’s possible for the costs to outweigh the savings. We have seen numerous instances in which the fees charged to employers exceed any possible savings. In one such case, a client was charged nearly \$1,000 in UR fees to assess the appropriateness of less than \$100 of prescriptions.

It’s important for employers, with assistance of their brokers, to negotiate a fair contract for cost-containment services. Employers and their brokers also need to monitor cost-containment services effectively. They should understand that the management reports they receive from cost-containment providers may not give them a clear picture of how much (if anything) these providers are saving them. They should realize that these “management reports” are really marketing reports designed to show cost-containment providers in the best possible light.

Questions for providers

Here are some questions you may want to advise your client to ask whomever is providing cost-containment services:

—Do providers in their TPA’s medical provider network bill at the network-negotiated rate or at their “usual and customary” (U&C) rate? Your client could be paying bill-review charges to “reduce” bills from providers’ U&C rates to the contracted rates of the network—a negotiated rate your client already has earned by joining the MPN.

Let’s say that for a certain procedure a physician in the network has a \$150 U&C rate and a \$100 network rate. Let’s also assume the bill-review firm charges 10% of savings. If the physician bills the employer at the U&C rate for the procedure, the bill-review firm might mark the bill down to \$100 from \$150 and charge the employer 10% of the \$50 “savings.”

Ensuring that network members bill at the negotiated rate could save your clients thousands of dollars annually in bill-review fees. If the medical provider network and the company that reviews bills have common ownership, or if all services are negotiated as part of a single contract, the employer might be able to negotiate a contract in which the bill-review service does not charge for “reductions” to contracted rates.

—What fees, if any, are charged for duplicate bills? Medical providers sometimes send out duplicate bills. Sometimes they result from slow claims processing; in other instances, the problem may be an over-eager billing office. Is your client paying for this annoyance—despite the fact that it has no control over it? Worse yet, is its TPA or cost-containment service taking credit for “saving” the client the cost of not paying duplicate bills—while also charging them added review fees?

Bill-review firms understandably want to charge for the time they take to review any bills, even duplicate bills. After all, they didn’t generate them, and any work takes time. But your client’s TPA should have safeguards to ensure they don’t send out duplicate bills for review in the first place. Any duplicate bills that do “slip through the cracks” and generate bill review fees should be the TPA’s responsibility.

—How is utilization review charged? Hourly rates are common and generally fair, as long as you know you can trust the time charges. We’ve also seen UR charged on a “per event” basis and even on a “line item” basis. For example an office visit with a doctor who prescribes physical therapy and two drugs would be one “event” but four “line items”—one for the office visit, one for the physical therapy

prescription and one for each of the two drug prescriptions.

Any of these approaches can be fair, and clients may have the option to select which method is used. In that case, we recommend that clients analyze data from prior years (including the outcome of current, delayed and appealed decisions) before deciding upon a methodology. Understand exactly what would have been charged under each approach before making a decision.

Management data or marketing reports?

Clear, concise and accurate cost-containment management reports are vital to a client's ability to gauge the value of cost-containment services. Analysis and review can help employers realize thousands of dollars in savings, but conducting that analysis can be difficult.

Cost-containment providers are happy to give clients reports with lots of pie charts and graphics that show what a great job they are doing. But are they? Certainly, some employers have realized tremendous net savings from cost-containment programs. But a careful review of some of these reports can reveal "savings" that bring to mind that great quote of Mark Twain's: "There are three kinds of lies: lies, damned lies and statistics."

In some of our audits, we have seen reports that include such questionable "savings" as:

- Denials of medical providers' bills that are overturned on appeal but still counted as savings.
- Denials of medical providers' bills that are upheld on appeal—and then counted twice as savings.
- Denials counted as savings while the disputed medical bills are still being litigated.
- Denials counted as savings, even though the disputed medical bills later were settled for partial payment.

UR savings reports can get really confusing when a denial is appealed and litigated. Let's consider just one denial of a procedure that was billed for \$3,000. The cost-containment firm claimed a savings of \$5,400, but we felt there actually was no savings at all.

How, you ask, could a denied bill for \$3,000 result in \$5,400 of "savings"? The answer is via a combination of double-counting the positive while ignoring the negative. We saw this procedure listed on a UR report with the "saved" \$3,000 listed twice—once when the bill was denied and again when the medical provider's appeal was denied. The only offset to the \$6,000 of claimed savings listed in the report was the \$600 in UR fees. Even if we don't double-count the denied \$3,000 bill, the UR service claimed to have saved the client \$2,400 net.

But the medical provider did not accept the denial. Would you just walk away from \$3,000? Neither do most medical offices. Generally in such instances, medical providers file a lien against the claim file and either attempt to settle the disputed charge themselves or sell the lien to a collection agency.

Usually, the UR management reports do not subtract the subsequent costs of lien negotiation and settlement from the initial claim of savings. In our example, the above procedure (which was denied twice) was provided on a lien basis. (The medical provider performed the service in spite of the denials and filed a \$3,000 lien against the claim file). Before the claim office could close the file, the lien needed to be dealt with—either by negotiating a settlement with the lien claimant or by taking the issue to trial.

The claim office chose to refer this lien to an attorney and take it to trial. Their attorney spent several hours preparing the case and attending a settlement conference. With legal costs mounting, the TPA decided to cut its losses and settle the lien. After paying \$800 in defense attorney charges and \$1,600 to settle the lien, the client's net savings were essentially nonexistent (remember, there were also \$600 in UR fees way back when). These costs should have been

deducted from “medical savings” in the UR management report to assess the true costs and value of utilization review, but in the management report we saw, they were not.

The bottom line

The bottom line is that cost-containment efforts can save your clients money and result in lower premiums or medical expenses (in the case of self-insured entities). However, they also have the potential to simply shift expenditures from medical providers to cost-containment providers—while leaving high workers compensation insurance premiums unchanged. By encouraging your clients to conduct in-depth cost-containment reviews and analyses, you can help them better manage their workers compensation expenses and increase their loyalty to you.

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