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OFFICE OF WORKERS' COMPENSATION

STATE OF LOUISIANA

TOWN HALL MEETING

SEPTEMBER 13, 2016

JUDGE KELLAR:

~~Okay. Good afternoon, as far as a~~

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late start. This is our first Town Hall Meeting. So we had a few little bumps in the road. But we have a good crowd. And we look forward to hearing from you.

I'm Sheral Kellar the Director of the Office of Workers' Compensation duly appointed in the Edwards administration.

I was formerly the Chief Judge of the Hearing Section for 17 years before being appointed as the Director. And I think this is a culmination of a career in workers' compensation and in employment. And I couldn't be happier to be at the helm of the Office of Workers' Compensation.

I had been aware prior to my appointment as the Director that we had some problems with the medical treatment guidelines and the process by which we implement the guidelines.

As the Chief Judge I was uniquely aware of the problems caused in the court and we were also sued so that changed the game plan. But I

1 think that as Director we want to give you an³
2 opportunity to be a part of the solution.

3 And we are looking for solutions.

4 That's why when I sent out the notice
5 for the Town Hall
6 Meeting I sent it to those parties who
7 are involved with the medical fees and
8 guidelines, with the healthcare
9 providers, employers, employees. You
10 know, and competent third party
11 administrators, so forth and so on.

12 You deal with the guidelines on a
13 daily basis. And so we want to hear
14 from you, what your challenges are.
15 And I'd love to hear, also, some of
16 those -- more of the medical treatment
17 guidelines.

18 I know that as Chief Judge the
19 Medical Treatment Guidelines are
20 directly responsible for a reduction
21 in the number of disputed claims that
22 are filed because we've taken medical
23 issues out of the trial pipeline and
24 given them over to the medical server,
25 outside medical services section.

So I want to do a couple of things
before we begin. First I want to

1 introduce to you the staff of the
2 Louisiana Workforce Commission and
3 some of the medical staff who deal
4 with the guidelines on a daily basis.
5 And I'll start first with our
6 agency head, Ms. Ava Dejais.

7 MS. DEJAIS:

8 Thank you for being here.

9 JUDGE KELLAR:

10 And then we have the Deputy
11 Director of the Office of Workers'
12 Compensation, Ms. Pauline Williams
13 (indicating).

14 Then we have Brenda Gannuch on the
15 end, down here (indicating). Brenda's
16 a nurse in the medical server section.

17 Dr. Picard is the Medical
18 Director.

19 Diane Lundeen is the Chief Judge. And
20 Mike Pickens is the IT person. He
21 gathers reports for the medical
22 treatment guidelines that have been
23 filed yearly, monthly, how long it
24 takes to get the decisions out, so
25 forth and so on.

So, anyway, this is what we're
going to do today. We have a court

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reporter, Mr. Peter Caruso, in the
back.

Mike has a microphone that he's
going to bring to the speaker. So
what I need you to do is to speak
clearly, speak slowly.

And in deference to everyone else
in the room who would like to make a
comment I'm going to ask you to limit
your comments to three minutes.

That does not mean that you may
not speak again. But each time you
speak only limit your comments to
three minutes.

We don't want you to talk about
specific cases or parties. You can
talk in generalities or hypothet. We want to
solve a problem.

And we may get some answers that
you won't like. But this is not a
session where you can bring to us
cases that you actually have or will
have in the future. Okay. Let's see.

There's water in the bin on the
outside. If you go out the door to
the right there's a bin with water
in it. And there's also coffee out

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there, I understand. But you cannot bring either into this room.

And with that we can begin. If you'll raise your hand I'll recognize you. You can make a comment or you can ask a question. And we'll do our best to try to address whatever it is you have.

Anybody? So that means that nobody in this room has any problems with the Medical Treatment Guidelines. Everything's been going smoothly, there's no hiccups, you're getting your decisions back, you like the decisions that you're receiving and we don't have any problems. Right?

MS. HENRY:

I'll be the first.

JUDGE KELLAR:

Thank you. Okay. State your name --

MS. HENRY:

Yes.

JUDGE KELLAR:

-- and who you're employed with.

MS. HENRY:

Hi. I'm Megan Henry. And I work

1 with Dr. John McGregor in Mandeville.
2 And he is a psychiatrist.

3 And my question is when I put in
4 for treatment sessions who is looking
5 at his notes, his summary, and making
6 a decision?

7 Is it an M.D., psychiatrist, or is
8 it a psychologist that's questioning a
9 psychiatrist?

10 JUDGE KELLAR:

11 Why don't I let Dr. Picard
12 tell you a little bit about his
13 background. Because he is the Medical
14 Director. He makes all decisions on
15 the 1009 appeals that you send to us.

16 DR. PICARD:

17 I'm not going to be long. I look
18 at every one of the medical decisions
19 and I make the decision. You can't
20 have a specialist for each individual
21 specialty.

22 You can't have an orthopedist and
23 a psychiatrist, and so on. And it's
24 not necessary because I'm not making a
25 decision based on my expertise
necessarily.

Obviously there's some of that

1 with respect to my background.

2 However, my decision is based on what
3 the Medical Treatment Guidelines
4 allow.

5 So if the medical treatment
6 guidelines allow for a certain
7 orthopedic procedure I'm looking to
8 see -- I'll just giving you an
9 example, of course, not specifically what you
10 asked.

11 I'm looking to see if it meets the
12 criteria in the guidelines for that
13 procedure, not do I think it's the
14 appropriate procedure.

15 So in answer to your question, I
16 make the decision based on what the
17 guidelines state. And specifically
18 for a psychiatric condition there are
19 not a lot of guidelines regarding
20 that. But we do have a few. And
21 that's what we go to make that
22 decision.

23 JUDGE KELLAR:

24 Dr. Picard, can you tell them a
25 little bit about your background?

DR. PICARD:

Yeah. Before doing this I was

1 doing Occupational Medicine, dealing
2 with injured workers. I'm a primary
3 care physician. So that's my
4 background.

5 JUDGE KELLAR:

6 Thank you.

7 Anyone else? I see a couple of
8 attorneys in the audience.

9 Trey, do you have any comments?

10 MR. MUSTIAN:

11 Oh, yes.

12 JUDGE KELLAR:

13 I was sure you would.

14 MR. MUSTIAN:

15 Thank you. My name is Trey
16 Mustian. And I'm an attorney. I've
17 been representing injured workers for
18 about 35 years.

19 And I'm former Chairman of the
20 Louisiana Association of Justice and the
21 Workers' Compensation Committee.

22 Let me see if I can narrow this
23 down. The things that I'm most
24 concerned about are really things that
25 I think need to be changed in the
statute and/or in the rules. And I
think one problem that we have, that

1 is a statutory problem -- it's
2 actually -- it's the way it's been
3 interpreted, actually, is that we have
4 the tacit denial problem when medical
5 treatment is requested.

6 The way it works right now, when a
7 provider requests some type of
8 treatment is the carrier just lets
9 five days go by and does nothing then
10 the appeal period starts whether the
11 claimant or the Doctor really realizes
12 that or not.

13 I think we're the only state that
14 has that, tacit denial, that I know
15 of, in the guidelines. There's a very
16 simple fix for that.

17 We could fix that in the statute.
18 We tried to do it a few times, and
19 without any success.

20 Secondly, I think that the 15-day
21 appeal period is just unrealistically
22 short. For those who do what I do we
23 deal with this on a daily basis.

24 It can be very difficult at times
25 to get all of the necessary material
together for an appeal within 15 days.
It sounds like it's easy, except a lot

1 of times I'll find it on Day 13
2 because I don't always get notified.

3 You know, right now we're supposed
4 to get notified. Attorneys are
5 supposed to get notified of all of
6 that action on a 1010. But that often
7 does not happen.

8 And there's absolutely no
9 consequence to the carrier for failing
10 to notify us. It's just too bad.
11 We've got to start over again. I
12 think that can easily be fixed by the
13 rules, as well.

14 The other things we've talked
15 about in the past, we need to have
16 some kind of a mechanism for an
17 official record when these things are
18 appealed.

19 The court, right now we have no
20 official record, really. And that
21 would be a very easy fix. I think
22 your regulation is simply to print out
23 a record is available for everybody so
24 everybody knows what the Medical
25 Director had. He would probably have me
make the decision. There's no discrepancy
about that.

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Also we need to do something about giving the Judges some guidance on what evidence is and is not admissible in these hearings.

There's still some difference of opinion about that among the Judges and among the circuits. Yeah. This -- unfortunately 3.1 was written kind of vague in places and didn't really give the Judges a lot of advice on how to interpret that.

So we need to -- I think we need to stipulate that other evidence can come in if it wasn't before the Medical Director.

But if it does maybe give the Director 15 days to take another look at it or something like that. And then -- I'm trying to get in under my three minutes.

JUDGE KELLAR:

One more comment.

MR. MUSTIAN:

Okay. And on variances right now the rules are strictly in the statute. The statute provides that to get a variance you have to have a

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preponderance, I believe, of the
scientific evidence.

But our rule, add the
requirements -- you've got literature that's
not in the statute. So currently I think
that the rules are not aligned with the rules and they
ought to be amended.

That's all I'm saying.

JUDGE KELLAR:

Okay. I have a question on what
evidence is not admissible at the
Judge level.

You were talking about whether or
not to allow additional evidence at
the Judge level?

MR. MUSTIAN:

Yeah. Stuff that was not
available to the Medical Director.

JUDGE KELLAR:

And you understand that some
circuits have spoken to that issue
and some have not?

MR. MUSTIAN:

I do. I just think we ought to
put it in the statute. Make it clear
so there's no difference of opinion
about it one way or another.

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JUDGE KELLAR:

And on the 15-day appeal period you're talking about the 15 days from the tacit denial or the denial?

MR. MUSTIAN:

Right. I think the court should get rid of the tacit denial. But I think it should be 30 days either way. 30 days is a much more reasonable time period.

And, you know, it's up to the -- if the healthcare provider or the claimant want to take 30 days that's not really a problem for the carrier. That's their problem. You know, that's our problem.

So if we need some extra time to do that I think we should be given that. We would have a lot less appeals getting kicked out for being untimely or improperly documented.

And we wouldn't have to keep starting the procedure over and over again. I think there's a lot of administrative waste in the process because of that.

JUDGE KELLAR:

And one last question. You would

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recommend tacit approval rather than
tacit denial?

MR. MUSTIAN:

Well, we've been down that road.
No. I'm just -- I'm not even saying
that. I'm just saying you don't have
a denial until there's an affirmative
denial.

The carrier has to -- either has
to approve or deny. Until they do
there's no appeal. There's not an
appealable action.

There should be some consequence
to doing nothing. I don't know what
necessarily that would look like. But
there should be some consequence to
that.

JUDGE KELLAR:

Any other comments or questions?

Yes, sir.

MR. CAVALINO:

Thank you. My name is Mark
Cavalino. I'm a physical therapist at
a local practice here in the city, and
sort of quasi representing the
Louisiana Physical Therapy
Association. My question is two-part

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and kind of general.

I'd like to hear what you guys for the upcoming years -- sort of plans, goals. Are there any things you're trying to get accomplished other than it sounds like some clarification with guidelines?

And I'd also like to know what's the makeup of the Advisory Committee currently.

JUDGE KELLAR:

Workers' Compensation Advisory Committee?

MR. CAVALINO:

Correct.

JUDGE KELLAR:

As you know, the Workers' Comp Advisory Committee is statutory. There's 17 members. And the Governor just appointed seven or eight people.

And to the extent that others were not appointed to replace them then the ones that were already on the Council remained on the Council. Okay?

MR. CAVALINO:

To my --

JUDGE KELLAR:

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Go ahead CAVALINO:

To my understanding I was like --
to my understanding there's no
physical therapists or rehab
specialists on the Committee, on the
Council.

I'd like to -- I think that's an
integral part of that Committee, to
have input into those decisions. I
just would --

JUDGE KELLAR:

So you recommend that a physical
therapist or a rehab specialist be a
member of the Council?

MR. CAVALINO:

Possibly both. Vocational Rehab
Specialist and physical therapist.

JUDGE KELLAR:

And goals? Specifically what --

MR. CAVALINO:

Just that -- do you guys have an
agenda or a plan that you're trying to
accomplish next year?

JUDGE KELLAR:

The Officer of Workers'
Compensation, the Director, me?

MR. CAVALINO:

1 Any of the above.

2 JUDGE KELLAR:

3 Well, with respect to the medical
4 treatment guidelines one of our goals
5 is to reconcile the statute with the
6 rules. We're not unaware that there
7 are some difficulties there.

8 We also want to try to address
9 some of the issues that were raised in
10 the litigation regarding the medical
11 treatment guidelines, regarding
12 medication.

13 And this is an effort to allow you
14 guys to be a part of the solution, to assist
15 us. Be our eyes on the ground, as it were, to tell
16 us, to try to see what we can't see because we're so
17 close to it.

18 So we know there are problems. We
19 hear you. You call us. And we
20 respond to you individually. So this
21 is an effort to, you know, respond to
22 you collectively.

23 But you're not telling me a whole
24 lot here. So I want you guys to speak
25 up because I know you have problems.
Because you call me, you call Brenda,
you call Diane, you call Pauline with

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your complaints.

I can tell you what they are. But you know what they are. And you may have some of the same problems that other people in the room have.

So this is your opportunity to get it out and let us address it. This is your opportunity to vent. I'm not going to let you do this very often.

I usually do the talking. But I'm going to listen to you today.

So our goal is to rectify the problems as we know them with regard to the Medical Treatment Guidelines.

The Medical Treatment Guidelines have passed constitutional -- through the Statute, 1203.1. It's good.

What is at issue now is the process by which we implement the Medical Treatment Guidelines. That's the Rule 2715.

It's much easier to change a rule than it is to change a statute. But if we need to do that then it is something that we can consider.

The litigation is about the Rule

1 2715. And so there's an easy fix and
2 hopefully we will be able to fix it
3 with the mutual cooperation of the
4 plaintiffs before it goes to a trial
5 on the matter.

6 Comments, questions?

7 JUDGE LUNDEEN:

8 Let me -- I'd just like to add --
9 if you'd like to look it up for
10 yourselves as to who is on the
11 Advisory Council, and that's what I
12 was just doing, you're going to find
13 that if you go to the Louisiana
14 Legislature's website.

15 And what you're looking for is
16 Title 23, Section 1294. It will tell
17 you how the Council is created and why
18 it was created, and the members that
19 presently sit on -- not the names of
20 the actual individuals, their titles,
21 whether it be physical therapists,
22 orthopedists. Name and their
23 specialty. And you'll be able to find
24 that there.

25 MR. CAVALINO:

Thank you.

JUDGE KELLAR:

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Yes, ma'am.

MS. MOLLY:

Hi, everyone. My name is Elizabeth Molly. I'm the Area Manager for Cordon (phonetic) Corporation. We're a third party administrator.

And we represent lawyers and insurance companies throughout the State of Louisiana. So thank you very much for allowing me to be here today.

My question, or maybe more a request, is for the medical treatment guidelines to address prescription medication.

We have found in several circumstances that there are different interpretations on whether medications, being prescription medications, drugs and so forth, are considered medical treatment or not, or part of medical treatment guidelines.

So there's really no avenue for us to be able to address the situation. So really our request is that that is either addressed or specifically stated that's outside of the

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guidelines.

JUDGE KELLAR:

This is another issue that has gone to the Appellant Court. I think the First and the Fifth have said that medication is not part of the medical treatment guidelines.

I think the case was appealed to a Judge before going to the Medical Director. And the Judge ruled that the appeal was premature because it had not gone to the Medical Director first.

And the Appellant Court said medical prescriptions don't need to go to the Medical Director. But that's the First and Fifth. I don't think the Second, the Third or the Fourth have spoken yet.

But that is an issue that might be addressed in another matter.

Sometimes we like to wait until the circuits split, and then go to the Supreme Court.

But I know this an issue not only for you, but for some District Managers, as well. And so, again,

1 we're not unaware that it is a
2 problem.

3 Yes, ma'am.

4 MS. ATKINS:

5 Thank you. Hopefully I can say
6 this correctly. My name is Nora Atkins.

7 And I work with Pain -- Interventional
8 Pain Physicians.

9 And we had an issue within
10 different offices of the
11 interpretation of the 750 per claim
12 in the physician world for a client in
13 the HIKFA, which is a data service
14 that we file the services for.

15 And then we're interpreting the
16 rule as per claim and per injury. So
17 I just wanted to see if we can get
18 some clarification on that.

19 JUDGE KELLAR:

20 If some of you here are not sure
21 what she means, the \$750 in medical
22 fees can be given without approval.

23 So per HIKFA if you have \$750 or less in
24 medical treatment you think that it

25 should be approved by the carrier
without having to go through the Medical
Director?

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MS. ATKINS:

Well, that's how some of our offices have been interpreting it. And they've never had an issue until probably the past four months. They're seeing it now being denied.

So we had questioned it. We were told a long time ago that it was per injury. So -- and then is the \$750 for -- per specialty?

I mean, how are we supposed to know if this worker, or this injured worker, comes into our clinic and has had treatment elsewhere?

JUDGE KELLAR:

So the question is is it per injury, per claim or per HIKFA, right?

MS. ATKINS:

Yeah. I mean, for a claim in the physician world, again, is per HIKFA.

JUDGE KELLAR:

Okay.

MS. ATKINS:

So they're saying if they, you know, see a patient and want to do a trigger point injection instead of putting them through a procedure,

1 because they're having spasms right in
2 front of you, why can't they do
3 something like that.

4 JUDGE KELLAR:

5 Okay. My response to your
6 question is I don't know the answer.
7 Again, I'm not unaware that it is an issue.

8 I think one of the things to be
9 considered when making a decision on
10 that issue is that depending upon how
11 we answer the question some parties
12 might circumvent the 750 rule by
13 making everything \$750, at which point
14 you don't need approval.

15 So I think you have to take that
16 into consideration when addressing
17 that issue. I know that that issue is
18 out there. I don't know what the
19 answer is. But I certainly understand
20 that it needs to be addressed. Thank
21 you.

22 MS. ATKINS:

23 So what do we do with our denied
24 claims?

25 JUDGE KELLAR:

Well, until -- the office does not
make -- has not responded to the

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questions on this issue. So at the moment I would say that you would continue.

If you reach your 750, and so you're over that on the same injury, you'd submit it to the Medical Director for approval until they say otherwise.

MS. ATKINS:

Okay. Thank you.

JUDGE KELLAR:

Yes, ma'am.

MS. COPY:

Good afternoon. I'm Rhonda Copy. Also with Cordon Corporation. I have a question about a newsletter that came out in July regarding FCE.

It basically has a question -- I'm not sure exactly where. But the question was is an FCE considered treatment or is a one-time evaluation, and does the claimant have an opportunity to choose the FCE facility.

JUDGE KELLAR:

Is it treatment or --

MS. COPY:

1 Is it a one-time evaluation to
2 establish TTD, whatever it was. I
3 can't remember. But what I do recall
4 is that it was going to give an
5 opportunity for the claimant to choose
6 their FCE facility.

7 JUDGE LUNDEEN:

8 So I'm not sure to which
9 newsletter you're speaking. But I
10 suspect that that newsletter was
11 talking about a case that came out
12 from northern Louisiana.

13 I think it might have -- I can't
14 remember what circuit it came out of
15 as far as the Court of Appeals.

16 MS. COPY:

17 Dr. Leddenbetter, I think, was the
18 physician.

19 JUDGE LUNDEEN:

20 It was a very interesting decision
21 that created more confusion. In the
22 past the claimant did not have the
23 right to choose where they went for
24 their FCE.

25 There was an old Third Circuit
 case, I believe, that was -- there's all
 sorts of cases that the claimant doesn't get to

1 choose because it's a quasi medical-type procedure
2 and therefore the claimant doesn't have
3 the right of choice of provider.

4 The new case came out and tried to
5 make a line of distinction much like
6 the old McCreary case where we were
7 trying to get IME's, whether it was a
8 condition, what really was the
9 condition.

10 We created in that -- because of
11 that case a lot of confusion. And so
12 the answer to your question based on
13 that case is sometimes the injured
14 worker get his or her choice of FCE
15 facility and sometimes the don't based
16 upon a factual analysis, pursuant to
17 the reasoning in that case.

18 Now, with that being said -- first
19 we are a civilian system which means that
20 arguably the courts don't have to look at what other
21 courts have done. And our job in Louisiana as a
22 civilian system, unlike the other 49
23 states, is to look at what the
24 legislature did and try to figure out
25 what its intent was, to strictly
interpret its intent.

The reality is we look to each

1 other to see what we're doing. We
2 hope that we're smart and we're
3 getting good guidance from the
4 appellate courts and the Supreme Court.

5 It's not -- and right there's not
6 a split in the circuit yet. There
7 probably will be shortly as people
8 will start citing that case.

9 That's what we call persuasive
10 authority. They're independent of the
11 system but other parties listed say "You
12 know what, that's not the jurisdiction
13 in which my Workers' Comp is in, therefore I
14 really have absolutely no obligation to
15 follow that."

16 As more circuits weigh in --
17 because we have Courts of Appeal that
18 grade our papers as District Court
19 Judges.

20 And as more circuits weigh in and
21 tell us what they think I think
22 they're starting to see either an
23 acceptance or rejection, or even
24 clarification of that case.

25 And eventually you'll probably see
because it's a sticky area now.

Either statutory clarification through the

1 legislature or you'll see it go up to the
2 Supreme Court, which could take a long time.

3 There's a lot of cases that go
4 through this state and the different
5 Courts of Appeal, so that the Supreme
6 Court will say "We're interested in
7 taking this up and having one voice
8 and one" --

9 JUDGE KELLAR:

10 Meanwhile, back at the ranch,
11 you're constrained to follow that
12 Appellant Court for PPO under that
13 jurisdiction.

14 For those who are outside of that
15 jurisdiction they don't necessarily
16 have to follow that Appellant Court.

17 Does that sound --

18 MS. COPY:

19 I understand what you're saying.
20 It's just like she said. It's going
21 to be muddy from the process. And
22 because you can always get an answer
23 about how to proceed with the FCE.
24 But there will probably be an
25 objection from some party.

JUDGE KELLAR:

And the Judge in that

1 jurisdiction -- that's north
2 Louisiana. Is that the Second
3 Circuit?

4 MS. COPY:

5 I believe so. Yeah.

6 JUDGE KELLAR:

7 So the Judges for the Second
8 Circuit, which I think is only going
9 to be Shreveport and Monroe, will
10 follow that decision. But the First
11 and the Fifth --

12 JUDGE LUNDEEN:

13 They're silent right now, really.

14 JUDGE KELLAR:

15 Yeah, they're silent.

16 JUDGE LUNDEEN:

17 So the answer is do what you think
18 is the right thing -- I mean, that's what
19 you're supposed to do, anyway, when evaluating
20 claims, is do what you
21 think is the right thing, based on
22 your understanding of the law.

23 And it may land you in court, but
24 it may then be the case it's assigned
25 what your clients in that particular
area are going to have to follow. So
you could be a hero or a villain

1 depending on which way it turns out.

2 MS. COPY:

3 I'm still lost as to how are they
4 defining it as a treatment as opposed
5 to just a one-time test to determine
6 return to work capacity.

7 JUDGE LUNDEEN:

8 I haven't seen the case in a
9 little bit. And so I can't address
10 you as well as I'd like to. Certainly
11 we can try and find cases.

12 Sometimes it's available. So if
13 you give me your card after this
14 meeting I will be happy to find the
15 case and send it to you.

16 But the way they defined it -- I
17 have four lawyers in front of me while
18 sitting in Shreveport and we're all
19 scratching our heads trying to figure
20 out what to do.

21 Eventually the defense said "I
22 don't know. It might be right to send
23 the guy an FCE. Let's just send it.
24 What can we agree on? Is this the FCE
25 place you want and it's not an
objectionable one" -- and that's also
a really great way to handle FCE's in

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particular.

Maybe if the two sides instead of spending lots of money -- no offense to my lawyers out there. Instead of spending lots of money on lawyers maybe if both sides can get together and talk about it, or both sides are represented, have the lawyers talk about it, and come up with a compromised FCE place that both sides can live with that's going to get good results to determine what the real limitations are of the injured worker.

JUDGE KELLAR:

Anyone else? Comments, questions?

Trey, you want to take another stab at it?

MR. MUSTIAN:

I don't really have a whole lot else.

JUDGE KELLAR:

Let me give you some facts on these questions. To date we received 1,750 medical guideline disputes. In 2015 we received almost 3,000. In 2014, 3,000. In 2013, 3,000. In 2012 we received 2,200. And in 2011 we received 3,400.

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We're going on claims that were
filed August 29th?

DR. PICARD:

Right about one month.

JUDGE KELLAR:

Right about one month.

DR. PICARD:

Right about 30 days.

JUDGE KELLAR:

So what we usually do is
everything we receive in a month we
key it in. And once it's keyed in it
goes to the doctor.

So we are averaging approximately
250 medical treatment guideline
disputes per month. This month,
however, we only keyed 130.

And that is probably because we've
had some down time. That's recorded
right at 30 days. But we had these
Town Hall Meetings. So the delay for
him may be longer than 30 days.

And then we are behind in our
keying, as I said, because we had some
employees who were affected by the
storm. But all in all I think that
we're doing an excellent job.

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His time delays are averaging about 20 days from the date he receives the files to the day he made the decision.

And considering that we did not have a Medical Director for about five or six months. He's been doing a trojan's job of getting us back up to a 30-day period.

Let me ask you a question. I have heard from various parties about the substance of the decision made by the doctor-- and that's not to say that -- I'm not making a comment on whether they're good or bad.

But some people have complained in the past, who had previous Medical Medical Directors, that their decisions were too long. Sometimes people are complaining now that his are too short, that they're not instructive.

Does anybody want to comment on that? Yes, sir?

MR. PRIMO:

My name's Quentin Primo. I'm an LCT at Workers' Comp.

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Dr. Picard, I want to applaud you for how much work you've done to catch up.

But also to Judge KELLAR's comments, we've seen -- we have seen, at least at our shop, and I've talked to others, a difference in responses that we get back on 1009's.

And there's been some shift in terms of the balance of those decisions. But without question we can see a big difference in the responses, as Judge KELLAR said, where there was a lot of detail in the past.

And I was there from the beginning, as a lot of other people in the room. And the guidelines were developed and the 1009 process was put in place.

And, you know, there was 500 pages going in to make decisions. And, you know -- so there's been a lot of work in healthcare.

But I think there are times when the shortened responses we're getting now lead us to having to -- they're a little bit more descriptive and a

1 little bit more -- a little more
2 reasoning up.

3 Understanding the reasoning before
4 you probably -- there might be less
5 1009's -- there might be less
6 challenges in the future if we
7 understand. "Okay, I see how we got
8 there."

9 I think we've -- some of you folks
10 that I talk to regularly have kind of
11 got a little bit -- they're not as --
12 it's not as clear as it used to be --
13 and I know you had a burden of volume.

14 But hopefully as you catch up a
15 little more description would be very
16 helpful, especially with the
17 guidelines as they change.

18 That's, you know, your -- how you
19 interpret them is going to change, as
20 well. I mean, the updates aren't
21 coming as probably rapidly as I think
22 people expect the initial -- because
23 it's a process. It's a lot of work.

24 But it's just -- if you have a
25 comment -- and hopefully -- and I'd be
happy to talk to you directly about
looking at those guidelines, looking

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at the guidelines, and what my true expectation -- you know, we would like to see for our folks to understand the --

DR. PICARD:

Yeah. You can be as wordy as you want to be. And I look at the responses from the insurance companies, it tends to be a volume of information, which I read. And most of it is helpful.

When you look through all of that there's only a small portion of what is actually what is going to make a decision.

There's only going to typically be one or two things that are going to be the main criteria that I'm going to use to determine whether something is approved within the guidelines.

For example, I might make one statement when I approve something that says the patient's injection is approved because he has failed conservative care and has had a positive result from a previous injection. To me that couldn't be

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more clear.

Now, I could make that into paragraphs if I needed to, if that would make, you know -- make it more helpful. So -- but for the most part we certainly do understand that concern.

And I have heard that. And we are going to try to implement increasing the detail in the responses for that. Part of that was out of necessity.

There were several hundred cases. I just didn't have the time to make paragraphs, more information in the responses.

JUDGE LUNDEEN:

Ms. Primo, would it be helpful to you if after you got that sentence, and that's apparently the key, if Dr. Picard then said "See section" so and such so that you knew where you went wrong or so that the Doctor knows how to re-formulate his query if he really feels the treatment's appropriate?

MR. PRIMO:

Well, that's two great points.

1 Because if you -- if I got every time,
2 you described the injection coming --
3 if I got that every time -- I have no
4 issues with that.

5 DR. PICARD:

6 There are some -- quite frankly,
7 there's not much you can say. I
8 mean, for example, I get so many --
9 there's no response from the carrier.
10 There's tacit denial. The physician
11 is asking for something that seems to
12 please the -- and there's not a lot of
13 criteria associated with it like a
14 surgery procedure or something.

15 And I might just put "Procedure
16 approved based on the guidelines" or
17 something similar, like that. Because
18 I have nothing from the other side to
19 say "Why are you rejecting it?" Well,
20 I need to address your concerns.

21 So --

22 MR. PRIMO:

23 And I hear you. And the other
24 point is when you cite -- and I know
25 sometimes as you just described you
 don't have anything really to work with.

 But when we get a siting of a

1 whole section, like a whole chapter --
2 and I may be exaggerating a little
3 bit. But it's such a large chapter.

4 DR. PICARD:

5 Right.

6 MR. PRIMO:

7 You're diving into 30 pages to
8 figure out, you know, where that came
9 from. And we're talking about the
10 people that are seeing that on the
11 other end.

12 And I've been a PA for 30 years.
13 And, I mean, Occupational Medicine,
14 urgent care. You know, I understand
15 that. But the average -- some of the
16 lay folks out there that are receiving
17 that really do need to have their hand
18 held as part of that process.

19 And I just think it would negate a
20 lot of further work. It would negate
21 a lot of 1009's that would be
22 processed, you know.

23 Because I think a large -- and go
24 back to the tacit denial. Well,
25 that's one that really gets me because
an insurance carrier -- and I'll say
here if an insurance carrier is not

1 responding within five days we've got
2 to figure out how to fix that in terms
3 of make it hurt. Because there's no
4 excuse for that.

5 And I know -- I can remember the
6 day we launched the guidelines back in
7 Independence Park. And I had a -- I
8 won't name the national carrier that
9 walked up to me.

10 He said, "We have five days to
11 respond?" I said, "You've had five
12 days for 20 years. That didn't
13 change."

14 And so there's a lot of that that
15 goes on. And we do need to fix that.
16 I think we'd help a lot of folks, the
17 physicians in the hospital groups to
18 do that.

19 But, yeah, the -- I think as much
20 direction as you can give within
21 reason it will help a lot of the
22 appeals to the 1008's. I really do
23 think that would help a lot.

24 Because we could -- most of the
25 things you get back that you either,
 you know, upheld or overturned, and
 the carriers denied it, you know, just

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move on.

Let's move on. Let's get the claimant and the patient moved on. I think the vast majority of domestic carriers and the regional carriers are going to do that.

JUDGE KELLAR:

I think I've had this conversation before with a couple of people. There's a fine line between how much the Doctor should say and how much he shouldn't say.

On the one hand we don't want him to write a treatise. But on the other hand we want his comments to be instructive towards the fit so that others who requested the same kind of treatment will know why he made the decision that he did.

The problem is that we're dealing with individuals. And there are some nuances involved in -- you know, a knee injury is not just a knee injury. You know, an ESI is just not an ESI. It depends on the patient.

And so it turns on so many little bases. But I do understand what

1 you're saying and the doctor
2 understands.

3 With the tacit denials --
4 Michael can attest to this, that some
5 of the problems with the tacit
6 denials is that we don't have good
7 fax numbers for their third party
8 administrators for the utilization
9 review people who are making the
10 decision.

11 So when the healthcare provider
12 faxes the 1010 to a fax number that's
13 no longer any good nobody receives it
14 on the other end. So the five days
15 just go out the window.

16 So we need some process by which
17 you guys or -- I mean, I don't know
18 how many utilization review companies
19 are represented here.

20 But we need a process by which
21 utilization review companies are
22 responsible for giving us that
23 information, good information.

24 In Workers' Compensation Court if
25 we send a claimant a notice for a
hearing or a conference, and he does
not come to the hearing or conference

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because of the lack of a good address,
we dismiss the claim.

Likewise, the claimant is
responsible for giving us a good
address for him so that we can notify
him.

Likewise, the people who are
making the decision about medical
treatment should be responsible for
giving us good information, as well.

And the way we do this is through
facsimile transmission. We need good
telephone numbers for you. We were
trying to notify all of the people who
have had involvement as stakeholders
of these Town Hall Meetings by fax.

And we didn't have good numbers.
There's no excuse for that. We
publish those numbers on our website.
And some of those numbers are no good.
There's no excuse for that.

And that's why we have a lot of
tacit denials. That's one of the
problems with tacit denials. That's
not the only problem. But that's one
of the problems.

So, you know, I would ask any of

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you who are making decisions about
medical treatment to make sure that
you update your fax numbers
periodically.

Any other questions, comments?

UNIDENTIFIED FEMALE SPEAKER:

Who do you contact for the update?

JUDGE KELLAR:

I'm sorry.

UNIDENTIFIED FEMALE SPEAKER:

Who do we contact to give the
update to?

JUDGE KELLAR:

The Medical Service Section.

UNIDENTIFIED FEMALE SPEAKER:

Medical Services?

JUDGE KELLAR:

Melody, probably. We have two
clerks at the office who input the
1009's. And they receive them --
Melody Koppel is one of the ladies.
And you can call her.

You can call anybody in the
district and give them the correct fax
number. But you can start with
Melody.

Yes, ma'am.

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MS. GINGRICH:

Megan Gingrich. When we put in an initial 1010 just by the company that it's going to you can pretty much know what the reply is going to be, don't y'all find?

I mean, you pretty much know what they're going to come back, whether they're going to approve it, whether they're going to approve it in full, whether they're going to take the 24 sessions and automatically go before a session.

Because I work with psychiatrists. You can't fix them in one visit. It takes time.

Is there any overseeing of these companies that just automatically -- like you see the same 1009's coming from the same company.

Is there anything that y'all do? Like do you have any power or anything over these companies to actually look at what the Doctor is saying initially and making sure that they are making decisions based on each individual and not just a blanket, that's what it's

1 going to be because this is the type
2 Doctor it is?

3 UNIDENTIFIED FEMALE SPEAKER:

4 It's the guidelines.

5 MS. GINGRICH:

6 I know. But -- well, okay. So if
7 it's the guidelines then how are
8 different companies given different
9 approvals?

10 JUDGE LUNDEEN:

11 That would be a recourse, to use
12 the guidelines to your advantage and
13 not pay. There are multiple ways to do
14 that.

15 The first is look at the
16 guidelines that relate to maybe the
17 five common modalities of therapy that
18 your psychiatrist is using.

19 Create something. Track the
20 language of the guidelines and submit
21 that. Because when you submit that
22 and the Doctor is tracking the
23 requirement -- and you can make a
24 blank form that you can populate just
25 in Microsoft Word.

And then when you get to the 1009
patient, I know it's frustrating that

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you have to go there, with a certain company, or two or three, or however many.

When it gets to Dr. Picard it could make his job so much easier because you've said, you know, "We're requesting pursuant to Guideline" so and such, such and so, "that Mrs. Smith gets the following treatment modality based on" -- and, you know, you can just tick them off.

So when he gets it, unless they have some great reason that they will know that's not warranted, you win. And eventually that company stops doing that, if they're just denying things.

Because they keep getting the same results from Dr. Picard, which is they've followed the guidelines, this is what the guidelines say. Therefore they are entitled to the treatment.

JUDGE KELLAR:

The answer to your question is this. No. We don't have any enforcement authority to what you said, to the companies that are making

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decisions.

But I would agree with you, that if some companies are giving blanket denials and your request appears to be within the medical treatment guidelines then perhaps we should put some teeth in there and say "Your decision was arbitrary and capricious."

There are some things on which we award penalties and attorney fees. I don't know exactly how we do that. But that is a great observation and one that we'll take into consideration as we do these town hall meetings.

UNIDENTIFIED FEMALE SPEAKER:

And first of all, when I call your office everyone's always very helpful. Because I've only been doing this for eight months. And I just kind of fell into it. So this has not been a career for me.

So your office has like really held my hand and helped me with everything. I have to say in the eight months we've won every appeal.

So obviously if we're winning each appeal then there's something before

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that that is the concern that maybe
I'm not doing it properly.

Like you say, maybe when I
submit -- but I'm submitting the exact
same type, each company. And some
companies you get it back immediately,
and they do it.

And other companies, they're going
to alter what the -- you know, what
we're requesting or they're going to
deny it.

The other question is once we win
the appeal and then we call -- because
we still have to get future approval,
right. That doesn't mean that they
have to pay just because we win the appeal.

JUDGE KELLAR:

That is correct.

MS. GINGRICH:

Right. And so if you call the
number and they say "No, we're still
not approving it," then what do you
do?

JUDGE KELLAR:

I think at that point you file a
1008.

MS. GINGRICH:

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Okay.

JUDGE KELLAR:

That's a disputed claim. It would be as if you have a judgment that has not been satisfied within -- what is it? 30 days.

JUDGE LUNDEEN:

30 days.

JUDGE KELLAR:

1201. something.

JUDGE LUNDEEN:

Well, okay. So that's Section 1201, Subsection G, which says if somebody fails to pay a judgment within 30 days then you start being -- there's a potential to have attorneys fees and penalties imposed upon the person who is failing to fund the --

JUDGE KELLAR:

Can you give me that again?

JUDGE LUNDEEN:

Title 23, Section 1201G. And that relates to a judgment of the court. And I believe it's a finalized appealable judgment.

And, again, so you don't have to go buy a law book, you can actually

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find that on the Louisiana
Legislature's website.

JUDGE KELLAR:

Yes.

MR. WANKO:

Thank you. Steve Wanko. It may
have been already addressed, but we --

JUDGE KELLAR:

Who do you represent?

MR. WANKO:

I represent plaintiffs.

JUDGE KELLAR:

Okay.

MR. WANKO:

And I'm going to side with Troy
and this lady here (indicating)
regarding some more teeth in the 1009.

I think we've taken some suggestions.

And I think we have a carrier. We
have proof of a medical professional
and now a plaintiff attorney, who I
think all say that we need some teeth
in these guidelines, because there's
no teeth.

One of my issues -- I just got a
1009 denied.

JUDGE KELLAR:

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No, specifics. Generalities --

MR. WANKO:

Yes. No problem. The original 1010 was filed on causation. The carrier denied it on causation. There was a 1009 filed.

And the Medical Director then came back on the decision, that it was not medically necessary. I'm just curious how it's addressed when it gets to the Medical Director's Office when there is an issue of causation.

I was under the impression that it wasn't even supposed to be addressed, that it was just supposed to be kicked back to begin with.

So now we have a situation where there's a 1009 just sitting there. If there was a causation issue we could file a 1008.

Now we have to file another 1008 on this 1009. Now there's --

MS. GANNUCH:

Was it presented to us as a tacit or was the 1010 addressed? Does it say causation on there?

MR. WANKO:

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It said causation.

MS. GANNUCH:

On the 1010?

MR. WANKO:

Yes.

MS. GANNUCH:

Did the carrier mark it on that?

MR. WANKO:

Yes.

MS. GANNUCH:

Then we should advise him. We should have denied that on that morning.

MR. WANKO:

So it is in your office. That's what's supposed to happen?

MS. GANNUCH:

If that is the case. Well, we do see the 1010 is blank but there are letters of causation. And we have the 1010.

MR. WANKO:

So let me just get this straight. So it has to have a check of causation even though there's causation in the letter to you? If there's not a checked causation box --

MS. GANNUCH:

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Yes. It should be addressed on
the 1010.

MR. WANKO:

And I believe it was. I'm just
making sure.

MS. GANNUCH:

Okay. But it should be on there.

MR. WANKO:

So if there was -- if it was
addressed is there a process where we
can now ask the Medical Director to
withdraw his opinion?

JUDGE KELLAR:

No.

MR. WANKO:

Since it wasn't supposed to be
addressed to begin with?

JUDGE KELLAR:

That's right.

MR. WANKO:

I'm just curious. Because now we
have to file two different lawsuits on
the same issue.

JUDGE KELLAR:

In my opinion -- Diane weigh in if
you want to -- a 1010, which was based on
causation, was to the Doctor. And it should not

1 have gone to him.

2 Because we don't address causation
3 issues in a 1009 process.

4 The Doctor made a decision and
5 approved the treatment?

6 MR. WANKO:

7 He actually denied it.

8 JUDGE KELLAR:

9 Denied the treatment. So I would
10 think that your appeal of his decision
11 through the 1010 to the Judge saying
12 that the Doctor should not have
13 addressed this in the first place.

14 Why would you --

15 MR. WANKO:

16 I agree.

17 JUDGE LUNDEEN:

18 I would weigh in on that, too. I
19 agree with the record. But I'd also
20 add that you can file the 1009's --
21 I'm sorry. The --

22 JUDGE KELLAR:

23 1008.

24 JUDGE LUNDEEN:

25 The 1008 saying that it should be
considered. And part of the move,
strike opinion excluded from any trial

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on the matter, as well.

That will protect the record both ways. And the 1008 --

MR. WANKO:

And that's what we have pending. But, you know, I'm just curious.

JUDGE KELLAR:

You're talking about --

MR. WANKO:

It's an example.

JUDGE KELLAR:

That's a hypothetical?

MR. WANKO:

Hypothetical.

JUDGE KELLAR:

Anything further?

JUDGE LUNDEEN:

Can I ask a question?

JUDGE KELLAR:

Yes.

JUDGE LUNDEEN:

Dr. Picard, what would help you in evaluating these cases from the people here that are sending things to you?

DR. PICARD:

The -- one of the big reasons that we end up with denials would be lack

1 of documentation of specific things
2 that are required by the guidelines.

3 So that's more of a thing
4 from the provider's standpoint. From
5 the insurance company's standpoint
6 just having the responses will not be --
7 so the amount of tacit denials because I
8 have no particular --

9 so the insurance company -- if I get a
10 response that would be helpful.

11 Their response is always very
12 instructive and helpful. I don't
13 always agree with it. But they're
14 useful.

15 And from the provider's side if
16 they don't document what needs to be
17 documented then I can't approve
18 something without the criteria being
19 satisfied, without the criteria being
20 documented.

21 JUDGE KELLAR:

22 And, Brenda, I will put the same
23 question to you. Because you put
24 these files together.

25 What do you want to see these guys
do better than they're doing now, that
would be helpful to you in

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determining whether or not the files
should proceed to the --

MS. GANNUCH:

Well, I think the bottom section
of the 1010 should be completed.

JUDGE KELLAR:

The bottom?

MS. GANNUCH:

The bottom section about carriers.
That should be completed. And so --
they shouldn't mark off -- it's
written on the 1010. It should be
marked appropriately.

JUDGE KELLAR:

Is the UR list helpful at all?

MS. GANNUCH:

It is. But we were told to by the
1010 as our guide.

MR. WANKO:

Steve Wanko, again. And, again,
you're asking for comments. I'm
assuming along those same lines should
we have a process in place where the
Director's office could ask for
additional documents if we know
there's a missing document and it will
solve this fairly quickly?

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DR. PICARD:

There's no way for me to know whether there is a missing document or one does exist. If there's no documentation for therapy I'm not going to call and say "Did you do therapy?" You should have said that.

MS. GANNUCH:

That's why we send out a copy. You don't want to chance the responses to submitted information. So the parties should let all of the other parties know what they submitted to the office.

JUDGE KELLAR:

Is that given the notice of filing privilege?

MS. GANNUCH:

Yes.

DR. PICARD:

Yeah. The notice we received the filing.

MS. GANNUCH:

The notice we received filing. Yes, it is. So that's what I said.

MR. WANKO:

I understand that. But shouldn't

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there be a process where you could say
"If you have this it may be helpful?"

MS. GANNUCH:

No.

MR. WANKO:

No?

DR. PICARD:

The process is what I say.

MS. GANNUCH:

The amount of volume of it.

MR. WANKO:

So in your decision you're going
to say "You're missing the MRI?"

DR. PICARD:

Yes. We're going to say it's
denied because there was lack of
conservative care as required by the
guidelines. Something like that.
Something of that nature, where you're
going to be able to see "This is what
I'm missing. And I can file another
1009 with that information to
subsequently get a favorable
decision."

JUDGE KELLAR:

The Notice of Receipt and Filing
says is a 1009 is appropriate for

1 Medical Director review. The 1009
2 and any evidence submitted will be
3 filed with the Medical Director five
4 days from the date of this letter
5 beginning the 30-day review process.

6 But, again, the problem sometimes
7 is that this goes to the healthcare
8 provider. And the utilization review
9 folks don't even know that the
10 healthcare providers are sending --
11 because the requirement that the
12 healthcare providers send to the other
13 side whatever has been sent to the
14 Medical Director has not been
15 followed. And that needs teeth.

16 MR. WANKO:

17 And I think that --

18 JUDGE KELLAR:

19 And so because it wasn't sent to
20 the utilization review company in the
21 first place they don't have an
22 opportunity to submit that additional
23 evidence that might be helpful to the
24 Medical Director.

25 So that issue has already been
raised about putting some teeth in the
guidelines, or in the process by which

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we implement the guidelines, so that these kinds of things don't happen.

Just like you as an attorney has to certify that whatever pleadings you file with the court be sent to the other side, the healthcare provider is supposed to certify that whatever he sent to the Medical Director was sent to the utilization review company, as well, or -- but that doesn't happen. It doesn't happen more often than not.

MR. WANKO:

It doesn't come to the attorneys, either. So that's part of the problem.

JUDGE KELLAR:

It doesn't come. That's correct. It doesn't come to the attorneys, either.

MR. WANKO:

So we don't even know it's out there. And, in fact, we may get a notice of the 1009, but there's nothing with it. We don't even know what was submitted.

JUDGE KELLAR:

And so one of the things that we

1 are looking at is penalizing the party
2 submitting the 1009 if they fail to
3 send a copy of what they sent to the
4 Medical Director, to the other side.

5 MR. WANKO:

6 I don't know if that would be
7 appropriate when you have a physician
8 who doesn't know what they're doing in
9 the first place. They're trying to
10 help --

11 JUDGE KELLAR:

12 That's not my problem.

13 MR. WANKO:

14 I understand.

15 JUDGE KELLAR:

16 The rules are the rules. And the
17 rules require that when you send
18 information to the Medical Director
19 you send it to the other side.

20 We have had -- this is not the
21 first time the Agency has gone around
22 the state to try to assist healthcare
23 providers and other parties in
24 becoming familiar with the Medical
25 Treatment Guidelines.

And as a matter of fact once we
noticed that a certain Doctor is

1 missing a bolt we make a personal
2 visit to their office and tell them
3 "This is what you're doing
4 incorrectly, this is what you do."

5 But there's no -- I don't know
6 what other directors did. I can't
7 speak to that. But I'm not -- the
8 rules are the rules.

9 As an attorney you have to follow
10 the rules. And so I expect everybody
11 else to follow them, as well.

12 MR. WANKO:

13 I just think it would be helpful
14 to some of the Doctors who are trying
15 to help these clients, who have
16 patients, to be penalized for them
17 submitting an incorrect -- maybe
18 there's a system where once it's
19 served at the office, you know, we pay
20 an additional filing fee to get this
21 served on everybody so we --

22 JUDGE KELLAR:

23 Who is going to serve it, my
24 office?

25 MR. WANKO:

Well, again, we're paying an
additional fee potentially, or someone

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is. I know that seems to be part of it. If nobody's getting notice maybe we need to have a system in place to make sure there's appropriate notice.

Just like we're paying these additional fees now to make these additional filings we now have to pay to serve every single party.

It's an additional burden, additional cost. I think it should be the same way in the 1009 because that's part of the problem.

JUDGE KELLAR:

You don't pay anything for the 1009.

MR. WANKO:

I understand. But maybe that's a suggestion. Maybe we need to. Maybe the employer then needs to have that and be serving on all of the parties. That may be an additional remedy.

JUDGE KELLAR:

I think that has been suggested.

MS. GANNUCH:

You represent the client?

MR. WANKO:

Excuse me?

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MS. GANNUCH:

Do you represent the client?

MR. WANKO:

I do.

MS. GANNUCH:

Well, they are mailed the Letter of Receipt and Filing. So they're --

MR. WANKO:

I don't disagree with you. But we don't know what they originally submitted. That's part of the problem. So we --

MS. GANNUCH:

I've never really looked on that letter. Say who the patient's assigned to. You could call us at any time. We'll tell you what the service was.

And as for records, we'll refer you to our Records Management to obtain those records.

MR. WANKO:

Right. We can go through the court and get that. But that's a burden on us, another process where initially we should have been included in the process. And we're not. So

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there's an overlap.

My only point was if we're missing a document which we may have seen from the beginning we'd provide it to the Medical Director so there's no decision that says "You missed this piece of evidence" we could have submitted.

Now we've got to go back to the 1010, 1009 process again. It seems, you know --

JUDGE KELLAR:

Yeah. I do understand. And I think that -- I hear the problem. And we are trying to address that problem by these Town Hall Meetings.

And then we have a 2715 group which is trying to, you know, make that easier and better. Because we understand that the plaintiff attorneys are not getting notified when they -- and any documents that are required and we're trying to address it.

MR. WANKO:

And maybe by charging a fee, that people are looking at this a little

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bit more to make sure they put it
together to begin with. "There's a

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e here,
let me
do this
once."

JUDGE KELLAR:

Yes. We'll go to Trey first. And
then we'll go to Ms. --

MR. MUSTIAN:

I just want to follow up on what
Steve raised a little bit better aspect
of it. Part of the

problem at the front end of this is
that very often -- I don't know.

A lot of times the healthcare
provider is submitting 1010's. And we
don't -- and I'm talking about
claimants' attorneys now, and the
plaintiff.

We don't know. Sometimes we don't
even know until quite a while, after
they spend the night. Then we have to
reconstruct everything within the
15-day period, sometimes much less

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than that, to get the 1009 filed on
time.

We contact the doctor's office,
"What did you submit?" Well, you know, it
usually takes a few days to get that back. We
probably would help them by processing this 1009.

I've even had providers send me a
bill, an invoice, for the records that
I'm trying to get to help them to get
their treatment provided before the
healthcare -- even the records that
were used.

So sometimes it makes it
impossible to get it in the 15 days.
But we're having a problem with front
end, knowing what records were
submitted, what was submitted by the
healthcare provider, what the ER
people looked at. Because it just
doesn't get to us a lot of times. But
we have to go out and get it from
people.

We need to have a way of getting
the information timely so that we can
get the 1009's filed on time with the
sufficient -- with the correct
documentation. And that's a big part

1 of the problem.

2 JUDGE KELLAR:

3 And that's part of the 30-day
4 delay. That's part of it.

5 MR. MUSTIAN:

6 Well, that would help. But we
7 still -- on the front end there needs
8 to be some mechanism where everybody
9 automatically -- submit it with the
10 1010. That's not happening.

11 JUDGE KELLAR:

12 Yes, ma'am.

13 UNIDENTIFIED FEMALE SPEAKER:

14 I agree that the 15-day is way too
15 tight only because it takes more than
16 five days to get your denials back.

17 And I guess does the time period
18 start when they say the denial is for
19 the 15 days, or from when I'm
20 notified?

21 JUDGE KELLAR:

22 There's a box on the 1010, Brenda,
23 that you look at.

24 UNIDENTIFIED FEMALE SPEAKER:

25 So the date that they reply.
That's not the -- okay. The other
question is -- I'll be honest with

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you.

I didn't know that I needed to send the 09's to the carrier, also. I do copy the attorney. I've been mailing the 09's and just realized that it's probably quicker if I just fax them to your office. Is that better?

MS. GANNUCH:

To our office?

UNIDENTIFIED FEMALE SPEAKER:

Yes.

MS. GANNUCH:

You can -- on the top page of the 1009 they'll tell you an address, a fax with the email, as well.

UNIDENTIFIED FEMALE SPEAKER:

I guess I had an older one. Because it just had an address. So I've just been mailing it. But when I called your office last week they -- because everything y'all -- there was a flood. And y'all were a week behind and all.

And they asked would I fax it. And I realized I can fax it.

JUDGE KELLAR:

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Yes.

UNIDENTIFIED FEMALE SPEAKER:

That would be so much easier. So
can I also then fax it to the carrier
who denied it in the first place?

JUDGE KELLAR:

Yes.

UNIDENTIFIED FEMALE SPEAKER:

So just fax it to them and then
send it to the attorney?

JUDGE KELLAR:

Yeah. You can fax it to the
attorney.

UNIDENTIFIED FEMALE SPEAKER:

So fax it. Okay.

JUDGE KELLAR:

Okay.

UNIDENTIFIED FEMALE SPEAKER:

Because I don't want to be fined.
Because I have nothing to submit.

MR. PRIMO:

Mr. Primo again. One of the
things I've heard Trey and Steve talk
about, the time frame issues.

I get all that. And I know others
that want to fix that problem.

But what we don't want to do --

1 and I say we. And I think you'll find
2 I'm speaking as a provider, as well as
3 an employer representing the insured.

4 We do not want to make them
5 disability any more than we have to.
6 Because I think that's ultimately the
7 our issue we have in this state. When
8 it comes to -- when we look at why
9 people aren't getting back to work.
10 It has to do with length of
11 disability.

12 And going backwards we've got a
13 really good reason in terms of
14 lengthening the time, you know. I
15 think it would really be an injustice
16 to the claimants and the patients.

17 JUDGE KELLAR:

18 Any further comments, questions?
19 It's 2:30. If there are no further
20 comments or questions then we just
21 will conclude our Town Hall Meeting.

22 There's a schedule of the other
23 ones on the table in the front. And
24 you are welcome to take one. There
25 will be others that we're having
around the state.

This week we'll be going to

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Shreveport and Monroe. And the following week we'll be in Lafayette, Alexandria, Lake Charles, and Baton Rouge.

So, please, if you think of anything that you did not ask or another problem, or reward or challenge, please come to one of us. Thank you.

C E R T I F I C A T E

This certification is valid only for a transcript accompanied by my original signature and original blue stamp on this page.

I, Peter Caruso, Certified Court Reporter, in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this proces verbal was as hereinbefore set forth in the foregoing 82 pages;

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That I am not related to counsel or to the parties herein; am not otherwise interested in the outcome of this matter; and am a valid member in good standing of the Louisiana State Board of Examiners of Certified Shorthand Reporters.