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SEDGWICK'S
QUARTERLY
PUBLICATION

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sedgwick.

Sedgwick is proud to introduce the *edge*, a quarterly publication dedicated to shining a light on our industry's leading-edge topics that shape our collective future.

Keys to compliance

Managing ADA/ADAAA as part of an integrated program

BY **SHAWN JOHNSON**

SVP, Disability Services, Sedgwick

State and federal regulations established by the Americans with Disabilities Act and ADA Amendments Act (ADA/ADAAA), Family and Medical Leave Act (FMLA) and workers' compensation laws are becoming increasingly complex. Without a consistent management process, employers leave themselves open to costly legal fees and penalties for non-compliance.

If you have questions, you aren't alone.

How can human resource and risk professionals best achieve compliance? Align the right resources to provide a consistent process supported by a centralized information system that can easily adapt to regulatory changes.

DEVELOPING A CONSISTENT PROCESS

The ADA/ADAAA process typically begins when an employee requests a change in the way his or her job is performed or exhausts all job-protected leave while remaining absent from work. Employers should make every effort to meet accommodation requests unless they would truly create a significant business hardship. For each request, your disability management team should follow a consistent process:



STEP ONE

Capturing the request

Make sure standard procedures regarding leave or accommodation are up to date, clearly communicated to the employee and trigger an interactive process review.



STEP TWO

Working with physicians to certify the impairment

Set expectations with employees, and request reasonable documentation to determine if they are disabled and if they can perform their jobs with accommodations. A job accommodation specialist certified in vocational rehabilitation can be very beneficial.



STEP THREE

Navigating through the interactive process

If an employee has an impairment, but is able to perform job functions with an accommodation, engage in an interactive discussion, set expectations and help them understand possible accommodations.



STEP FOUR

Working together to determine the appropriate accommodation

Choose the accommodation that will allow the disabled person to do his or her job most effectively. This may involve researching technical solutions and adaptive equipment.



STEP FIVE

Implementing the accommodation

Discuss status and next steps with the employee along with a designated contact, then implement the accommodation. In some cases, a reasonable accommodation may be unpaid leave.

THE ADVANTAGES OF AN INTEGRATED CLAIM SYSTEM

An employee's request for a job accommodation can arise as part of a claim for short- or long-term disability, FMLA or workers' compensation – or a condition that doesn't qualify for any of these.

A claims management system that brings together the information on all types of employee absences, tracks each step in the process and enables comprehensive documentation helps ensure compliance on multiple fronts. Relying on manual tracking methods may lead to compliance violations and increased risk. A centralized information platform that supports multiple processes can greatly reduce documentation risk – and give employers a significant advantage in the current regulatory environment.

Integrating claim systems not only helps streamline the information, it can also help employers reduce costs. Over a three-year period, Sedgwick found employers that implemented integrated disability management programs reduced their internal administration costs by an estimated 10 to 20%.

ADDITIONAL RESOURCES

Webinar: ADA/ADAAA challenges: Are you compliant?
<http://youtu.be/OWIUXEeLSU8>

Sedgwick Connection blog
<http://blog.sedgwick.com>

ADA accommodation overview
https://www.sedgwick.com/news/Documents/Services/ADA_Accommodation_Services.pdf

Integrated disability management white paper
<https://www.sedgwick.com/news/pages/idmwhitepaper.aspx>



Regulation-less nation

New issues and ongoing legislative changes are creating uncharted territory to navigate

BY **DARRELL BROWN**

Chief Performance Officer, Sedgwick

Workers' compensation is a highly regulated environment, but claims administrators and risk managers have recently been faced with new challenges – and some do not have clear-cut rules. Ongoing legislative changes surrounding the use of medical marijuana, same-sex marriage and public health issues such as Ebola and the recent measles outbreak, to name just a few, have raised questions for employers. Some of these topics may not seem to have an extensive impact on the workers' compensation system, but when they arise, examiners must incorporate best practices, make judgment calls and consult with legal counsel to ensure each claim is handled properly.

For example, the evolving state laws related to medical marijuana could increase the possibility of injured employees adding it to their treatment and then attempting to include it in the workers' compensation benefits paid by their employer. Only three states, Colorado, Maine and New Mexico, currently have licensed proprietors that legally dispense medical marijuana to patients; and no physician in the United States can prescribe it without violating federal law.



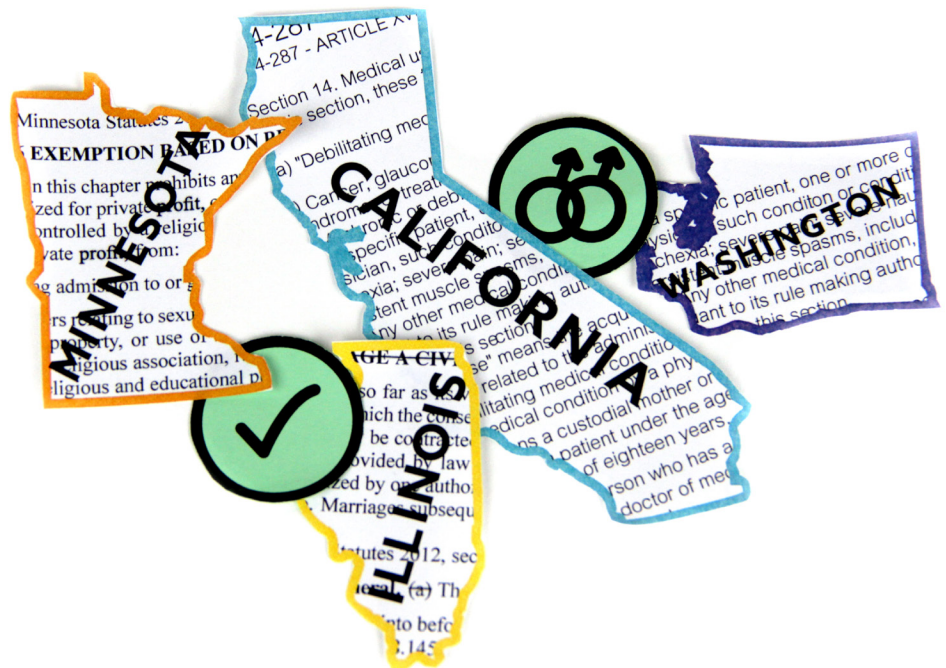
In 2014, the New Mexico Court of Appeals upheld a workers' compensation judge's order requiring an employer to reimburse an injured employee for medical marijuana even though doing so would go against federal law (*Vialpando v. Ben's Automotive Services*). Due to the variables and conflicting regulations in this area, these types of claims must be addressed on a case-by-case basis and require legal assistance.

Relative to same-sex marriage, the debate has been going on for many years. Court and state

actions have resulted in same-sex marriage being legal in close to 40 states. The U.S. Supreme Court will hear oral arguments in late April and is expected to resolve the issue. However, while it is being worked out in the courts and the debate rages on, the claims industry has to decide without regulations in most cases what death benefits may be due if a claimant was involved in a same-sex marriage.

When unregulated issues outside of workers' compensation impact claims, or when differences exist between state and federal laws, it causes challenges for employers. How will your organization navigate the ongoing changes? With uncertain terrain ahead, employ-

ers and their risk managers will need to establish policies to address these issues, and continue to stay up-to-date on new laws that may factor into work-related injury and illness claims. Sedgwick has dedicated national experts for workers' compensation, managed care and other areas who have jurisdictional knowledge and keep track of legislative changes, and ensure compliance with legal and regulatory requirements. They also keep our clients and colleagues connected to emerging trends and changes in the industry. Having thought leaders involved who understand the issues is the key to ensuring the best possible outcomes going forward.





Hash and burn

Hash oil explosions and the legalizing of marijuana

BY **KEVIN REILLY**

*IAAI-CFI, Field Supervisor,
Unified Investigations & Sciences
(UIS), a Sedgwick company*

With the increasing legalization of medical and recreational marijuana in specific states, we have also seen an upturn in property damage, personal injury cases and even death claims caused by fires and explosions.

Growing marijuana requires the installation of various lights, pumps, filters and fans to accommodate the plant's needs. Growers in this new industry may be inexperienced, and tend to grow a lot of plants and install a lot of appliances to support the process. Many times, we see that the electrical requirements to operate these appliances overrun the system in the facility, often a house, and a fire ensues. Improper wiring and additional breakers installed to meet the increased demand for electricity are often more than the conductors can handle. Couple that with overloaded extension cords, and the likelihood of an electrical fire increases.

Several examples have hit national and local news in the past year. For example:

“Hash oil, a form of concentrated THC from cannabis plants that is created using liquid butane, has been linked with dozens of explosions in Colorado, where marijuana use has been legal since 2012. Similar explosions have been reported in California and Washington State.”

NEWSWEEK | 01/19/15

Hash Oil Linked to Dozens of Home Explosions in Colorado

“A joint task force on drug trafficking says in the first four months of 2014 there have already been 31 explosions, compared to 11 hash explosions the previous year.”

CBS NEWS: DENVER | 05/01/14

Lives Put at Risk as Hash Explosions are on the Rise

“More than a dozen explosions in the Denver area so far this year are being blamed on people cooking hash oil.”

CBS NEWS: DENVER | 04/28/14

Hash Oil Explosions Becoming a Dangerous Trend

Another side effect of the legalization process is the manufacturing of hash oil. People and agencies have learned that hash oil has many uses, and the tetrahydrocannabinol (THC) in the oil is a much desired commodity in the marijuana industry. Unfortunately, the means to manufacture the oil can be dangerous and often deadly.

One dangerous home method of hash oil production involves using butane, a highly flammable gas that can settle in the lower parts of a structure and accumulate. If an ignition source is present, the resulting explosion can level buildings, injure or kill occupants; and secondary fires can damage the remaining portions of a building as well as surrounding structures.

“The people involved were either not aware of the dangers or, in some cases, knew about the potential hazards and chose to ignore them.”

Since marijuana legalization has occurred, Sedgwick’s subsidiary, Unified Investigations & Sciences, has investigated many fires and explosions associated with growing operations and hash oil production in houses, rental properties, garages and commercial structures.

There are two common threads in these events – the people involved were either not aware of the dangers or, in some cases, knew about the potential hazards and chose to ignore them. This has cost people their lives and caused hundreds of thousands of dollars in damages.

Treating the whole person

Understanding the relationship between psychosocial issues and return to work

BY **ANDREA J. BUHL**

MSN, RN, FNP-BC
VP, Clinically Integrated
Medical Programs, Sedgwick

Behavioral health is a growing topic in the workers' compensation and disability claims industries. For a long time, they focused on the medical management side and did not delve into the psychological side. There are more and more **studies** supporting the fact that psychosocial issues can impact employees' pain, functionality – and ultimately their ability to return to work. Many employers, insurers and third party administrators have shied away from addressing psychosocial issues. However, it is important to note that many psychosocial barriers are in existence even before the work-related injury or disability occurs; if these factors are not acknowledged and dealt with, they can significantly impact lost time and medical costs.

When sick or injured employees are off work for long periods of time and they are not improving or their pain is getting worse, we can't just look at their cases in a silo. We have to dig deeper by looking at possible **behavioral issues** that may be going on and address these concerns early in the process to help employers ensure the best possible outcomes.

HOW IT WORKS

At Sedgwick, our strategic case management nurses review the claims that are referred for case management and look for yellow flags, which may identify concerns such as anxiety, fear of returning to work or a history of narcotics use. The nurse will have conversations with the employee to see if there is something that needs to be done a little differently for them or issues that need to be addressed, and determine if they need behavioral health intervention. Our claims specialists are also trained to look for these flags and they can make the referral at any time in the claims process.

BENEFITS

Our dedicated behavioral health specialist (BHS) identifies psychosocial barriers and then develops a customized approach for each employee to help address the issues that are preventing them from returning to work.

The BHS is skilled in quickly breaking down barriers and fostering an environment of trust with the employee, which can result in reduced litigation in workers' compensation claims.

Through telephonic conversations, psychosocial barriers to return to work are addressed. Additional resources, including private health and employee assistance programs (EAP), can be leveraged to ensure the employees receive the care they need even after they have returned to work and the BHS is no longer engaged.

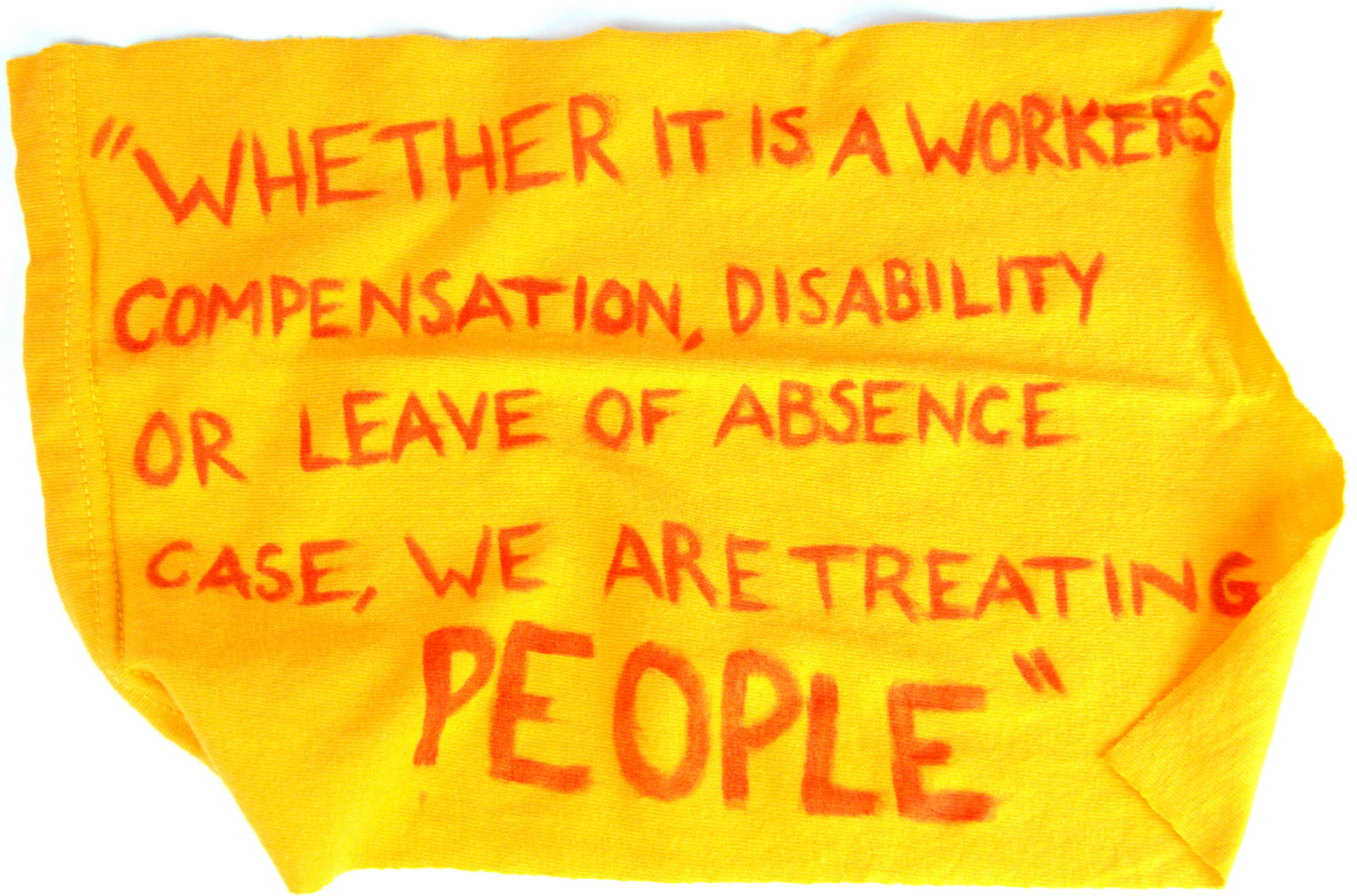
For employees who do not have health insurance through their employer, our BHS will look for resources that are available in their community. Group therapy options or online resources may be available depending on the circumstances. If the employee has medical needs that are not part of the claim, the BHS may be able to find discounted rates for treatment.

Our goal is to identify possible issues that may be causing barriers for the employee and provide the tools to help them get back on track. For example, we may recommend that the employee contact their employer's EAP program and then follow up to make sure the discussions are worthwhile.

Many times, people who are struggling or feeling depressed over certain situations or have anxiety don't want to reach out on their own, or they may have trouble getting an appointment set up or following through if there is no one there to check on them. That's one of the benefits of Sedgwick's behavioral health program.

Some employers in the retail industry engage EAP staff to come on-site to do a debriefing following a robbery. If employers do not have this type of program, our BHS can follow up and ensure the employees are obtaining the care they need to address any psychological and emotional issues they may have after a traumatic event like this, or one involving personal illness or tragedy.

Sick and injured employees who have been referred to our behavioral health program know they have an advocate who is there to help them overcome the challenges associated with a work-related injury, disability or absence.



BOTTOM LINE

Whether it is a workers' compensation, disability or leave of absence case, we are treating people. Sometimes that requires thinking outside of the box for claims administrators and employers. Sedgwick has all of these services in house, which makes us more flexible, and we

see how all sides can work together effectively for our clients and their employees. Our behavioral health program looks at cases from the medical perspective and from the psychosocial perspective, not just from the workers' compensation, disability or leave of absence perspective.

ADDITIONAL RESOURCES

JAMA Psychiatry

<http://archpsyc.jamanetwork.com/article.aspx?articleid=210038>

Physical Therapy Journal | APTA

<http://ptjournal.apta.org/content/91/5/737.full>

Society for Human Resource Management

<http://www.shrm.org/hrdisciplines/benefits/articles/pages/integratingmentalhealth.aspx>



A progressive approach to reducing aged pending claims

Employer success: Compromise and release

BY **CINDY PARKER**

VP, Operations, Sedgwick

Many employers today are concerned with aged pending claims; with age comes ongoing medical, pharmacy and litigation costs. Aged pending claims are costly and may seem impossible to control, but there are strategies that can help employers successfully settle them and protect their company's bottom line. An example of a very creative and successful strategy was developed with the University of California (UC).

UC wanted to reduce their open claims inventory and outstanding liability, improve actuarial outcomes and lower their cost of risk. They wanted to reduce the number of aged pending claims and find a way to stop new claims from becoming aged. They instituted a new compromise and release program for every single claim regardless of employment status. This includes giving employees with workers' compensation claims a lump sum that is the value of their remaining medical treatments. Previously, UC did

not permit the compromise and release option for individuals who were still employees.

Through phone calls and face to face visits, Sedgwick explained the program with each employee in an effort to help them understand the settlement offer. With the money in hand, the employee has the freedom to select their own treatment and schedule it anytime and anywhere they choose. One of the other advantages from the employee's perspective is that they no longer have to go through the utilization review (UR) process.

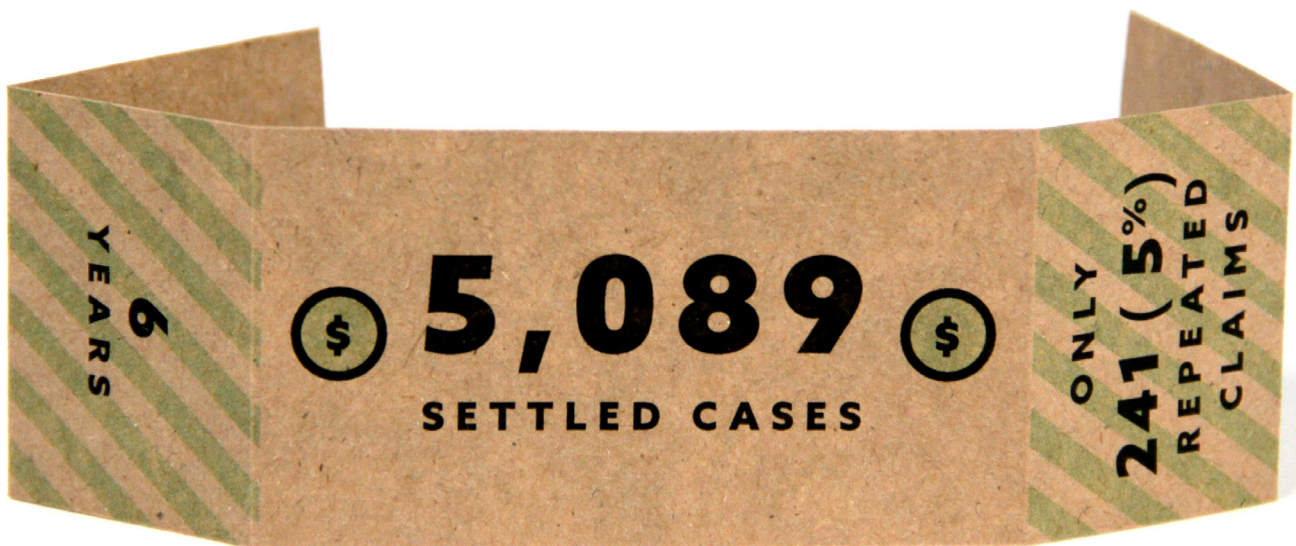
Sedgwick's managers and supervisors also took a triage team approach to the old claims. They looked for key indicators, such as employees with multiple treatments that were denied by UR or those with several upcoming treatments. UC also worked with us to help balance the examiners' time, so they could address the aged pending cases while still managing the new claims.



RESULTS

Over a six-year period, Sedgwick's team settled 5,089 cases by compromise and release. Out of those, only 241 (5%) ever filed another claim for the same body part.

The client is pleased with the success of the program and continues to offer it to all employees with workers' compensation claims.



Expert view

Q&A with Jason Landrum, Chief Information Officer, Sedgwick

The "Expert view" column presents a wide range of claims management topics offering valuable insights and information for clients.

edge:
What are you working on right now that will have an impact on our clients this year?

Jason:
One of the important topics we're looking at is how technology impacts our users, and trying to ensure that it accommodates all different types of individuals and preferences. For example, some people do not necessarily like to pick up a phone and others only want to talk to a human. Developing technology so that we reach everyone in the way they want to be reached is the key. We are looking at incorporating new communications

with claimants, and expanding the options within our web-based and mobile applications. Currently, injured or ill employees receiving workers' compensation, disability and leave benefits can use our viaOne® technology solution on their smartphones, computers or other devices to view claim and case information on a real-time basis; with our push technology option, they can choose to receive emails or text messages with information that is more timely communications to help improve each employee's experience and facilitate a smooth claims process.

JASON L. LANDRUM

Landrum has played an integral role in managing some of Sedgwick's most significant technology projects, including two of the company's largest-ever new client implementations, and the development of the award-winning viaOne® express mobile application and push technology. He joined Sedgwick in 2010 as vice president of information technology applications. Landrum was named senior vice president in 2012 and promoted to chief information officer in 2014. During his career, he also served in various strategic software development roles at a global claims management services firm.

Another area we are looking at is using real-time data analytics or predictive models to alert examiners instantaneously if concerns arise on a claim such as litigation or fraudulent activity. At the time the claim is reported, we will be able to check the system and get current information.

edge:

What else is on the horizon for viaOne?

Jason:

We continue to enhance our viaOne application to ensure that we are providing the most up-to-date options for our users. Next up is a new version of viaOne express, which is designed to respond to the user's system, screen size and tools so they can access the application on any device or platform. In addition to its responsive design technology, the next generation of viaOne express will include improved navigation, a simplified menu structure and new features such

as a dashboard on the landing page and a customizable intake screen. It will also build upon our current viaOne express system and mobile app, which allow users to quickly access details on claim status, view payment history, update their claims representative regarding a medical appointment or return to work date, and opt in for our push technology option to help them stay informed during the entire claims process. Sedgwick was the first in the industry to offer a mobile application and our team continues to innovate by developing all of our external-facing applications using responsive design technology.

edge:

With all that has happened in our world with data breaches and cyber-attacks, what advice do you have for our clients in this area?

Jason:

It is important to have a strong security incident response plan and team, supported by an annual business continuity plan and review practice, so that you are prepared to respond quickly to suspicious activity. Another thing that is really critical is to never stop asking questions. Do not get comfortable and think you are protected because there is always more that you can do. It is also vital to have a person continuously looking at your system and figuring out the possible ways that you could be breached given that company data has such a high risk of being attacked these days. In addition, it is beneficial to involve risk managers and other key players in your company's planning process. Everyone has heard about the large corporations dealing with data breaches in the past couple years, and it creates more of an awareness that it's not just an IT problem anymore, it's a company problem.

Edging up

Short takes on emerging industry issues – from use of clinical services to an update on the SMART Act

Use of clinical on a claim

BY **JAMES M. HARVEY**

SVP, Managed Care Products & Product Development, Sedgwick

The opioid epidemic is a problem that touches many lives. We have heard numerous stories involving people who have become addicted because they started innocently taking pain pills. As this issue invades the very fiber of American life, we have to think differently about function versus pain and understand that there are other ways to treat discomfort. We don't always have to take the easy way out with pills.

A recent study published in the *Journal of Occupational and Environmental Medicine* by Robert Lavin and colleagues adequately painted the picture of the workers' compensation world many of us already knew to be true. Despite what some might think, the use of opioids (e.g. hydrocodone, oxycodone, morphine) is not the solution for getting injured workers back on their feet and working again. With over 11,000 workers' compensation claims reviewed over a period of seven years post-injury, the study shows us that those claims where opioids were never prescribed were closed in an average of 412 days and cost an average of just over \$10,000. Yet, when an opioid was prescribed, the claim could last as long as 1,985 days and could cost the client over \$180,000, including both medical and indemnity costs.¹

Medications are and have always been a tool to help get injured employees back to work. Many times, it's medications, even the short-term use of opioids, that allow a patient to get through a needed

SEDGWICK

CONNECTION BLOG

<http://blog.sedgwick.com/2015/04/13/dont-wait-for-regulatory-changes-manage-prescription-drug-use-today/>

¹ Robert A. Lavin, MD, MS; Xuguang Tao, MD, PhD; Larry Yuspeh, BA; and Edward J. Bernacki, MD, MPH. "Impact of the Combined Use of Benzodiazepines and Opioids on Workers' Compensation Claim Cost." *Journal of Occupational and Environmental Medicine* 56.9 (2014): 973-78. Print.

surgery or physical therapy so that they can return to normal daily living. Yet, the data is showing that opioids and other concerning psychotropic medications often seen in workers' compensation are increasing costs and risks – and leading to a much bigger problem. And it's not just an industry problem. Nationwide, inappropriate drug use is a leading cause of injury or death in the United States and the rate of deaths due to drug overdose has doubled since 1999.¹

We realize the problem is far more complex than what medication is dispensed in a bottle. Yet, we believe the solution for combatting this trend is something

we are very familiar with here at Sedgwick. One of our core values is "one company, one team." This concept is the foundation for the collaborative, multidisciplinary effort we provide with our complex pharmacy management (CPM) solutions. Our CPM team, made up of Sedgwick's skilled nurses, pharmacists and physicians, is tasked daily with addressing the most challenging claims and the medications that could endanger the health and safety of injured employees. Last year, CPM intervention on claims with long-term opioid use resulted in a 25% decrease in the number of medications prescribed and a 41% decrease in morphine equivalent dosage across medications

prescribed. Reducing the number and strength of prescription drugs puts injured employees on the pathway to productivity and improved health and safety.

What distinguishes our program is not just a functioning group of multidisciplinary clinicians; it's the collaboration with treating physicians and our claims colleagues that sets us apart and drives the best results for injured employees. As the workers' compensation world continues to watch the opioid dilemma unfold, our CPM team will remain on the front lines working together for success.

U.S. Department of Labor updates definition of spouse

BY **SHARON ANDRUS**

Director, National Technical Compliance, Disability, Sedgwick

The Family and Medical Leave Act of 1993 (FMLA) includes provisions for eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons. In February 2015, the U.S. Department of Labor (DOL) issued new rules revising the regulatory definition of "spouse" in the context of the FMLA to include employees in legal, same-sex marriages in order to allow

them to take FMLA leave to care for a spouse or family member. The change, which took effect March 27, 2015, was intended to give employees in same-sex marriages the same rights under the FMLA as all other employees regardless of state of residence.

On March 26, 2015, a United States District Judge in Texas temporarily blocked the rule from going into effect after at-

torneys general in the states of Arkansas, Louisiana, Nebraska and Texas challenged it because they do not recognize same-sex marriage under state law. The plaintiffs, which are these specific states in this case, claim the FMLA rule violated Section 2 of the Defense of Marriage Act by requiring states to recognize same-sex marriages entered into in other states.

On April 10, 2015, the federal judge in Texas refused to lift the restriction against the DOL rule to force Texas to recognize same-sex spouses married in other states. Following the court order, the DOL has confirmed it will not enforce the rule in Arkansas, Louisiana, Nebraska and Texas, but confirmed it will enforce the rule in the remaining 46 states. Any same-sex spouses in these four states only will not be eligible for FMLA protections.

Sedgwick will continue to process any leave cases for same-sex spouses under employer-spe-

cific personal leave policies, if already established. If you are a Sedgwick client that does not currently have an existing personal leave policy, but would like to add one, please contact your client services director to request an update. Sedgwick will process any applicable cases to ensure FMLA will not be applied for same-sex spouses in the states of Arkansas, Louisiana, Nebraska and Texas.

For more information on the multi-state ruling or to read the FMLA announcement, please see the [DOL's website](#).

U.S DEPARTMENT OF LABOR

<http://www.dol.gov/whd/fmla/spouse/index.htm>

SEDGWICK CONNECTION BLOG

<http://blog.sedgwick.com/2015/03/24/u-s-department-of-labor-updates-definition-of-spouse/>

Have a plan for dealing with all types of severe weather that may cause physical damage to your home or business. Here are some additional weather resources to help you plan and stay prepared.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

AMERICAN RED CROSS

THE WEATHER CHANNEL

Preparing for major weather events

BY **SCOTT RICHARDSON**

SVP, National Property Manager, VeriClaim, a Sedgwick company

This past winter offers a recent reminder of how unpredictable the weather can be and how important it is to be prepared. Tornadoes, thunderstorms, hail, hurricanes, lightning, floods, extreme temperatures and other weather-related events have cost millions of dollars in [property damage](#) over the years. In fact, tropical storms and hurricanes resulted in more than \$10 million in property damage in 2013, according to the latest statistics published by the [National Weather Service](#). To help you prepare for the upcoming hurricane season, the National Weather Service offers important information on their website including posters and other resources centered around [National Hurricane Preparedness Week](#), which runs from May 24–30, 2015.

Is the SMART Act finally getting implemented? Yes!

BY **MICHAEL R. MERLINO II, ESQ.**

SVP, Medicare Compliance and Structured Settlements, Sedgwick

The Strengthening Medicare and Repaying Taxpayers (SMART) Act of 2012 was passed more than two years ago with the intended purpose of addressing shortcomings in two areas of Medicare compliance: mandatory Medicare reporting (MMSEA/SCHIP) and conditional payments ("Medicare liens").

Some areas of the law required no action by the federal government. For example, the SMART Act established a very clear three-year statute of limitations and softened the penalties for failure to report claims under the MMSEA. Specifically, the SMART Act removed the strict liability provision that required a \$1,000 per day, per claim penalty and replaced it with discretionary penalty of "up to" \$1,000 per day, per claim based on fault principles.

Other sections of the SMART Act required action by The Centers for Medicare & Medicaid Services (CMS), the federal entity that manages the Medicare program.

This year, CMS is implementing two important sections:

1. SOCIAL SECURITY NUMBERS

CMS is eliminating the need to obtain a claimant's complete Social Security Number (SSN) in order to determine if the individual is a Medicare beneficiary. Rather, CMS now will accept the last five digits of a claimant's SSN on materials submitted for approval. Many claimants were unwilling to provide a complete SSN for privacy reasons, which impeded the claims handling process. This change should reduce the claimants' reluctance to provide this important piece of information.

2. TIMELY FINAL CONDITIONAL PAYMENTS DEMANDS

The Act requires CMS to simplify the conditional payment process by providing parties access to a final demand (how much Medicare is owed) before a case settles. This is an important change to CMS' current process that provides the final demand after a case settles. Receiving the final demand after settlement causes many problems in the claims handling process.

In order to accomplish these changes, CMS is significantly enhancing its online portal to facilitate the transfer of information between the parties to a lawsuit or claim and CMS. Pilot programs beginning in April 2015 should be fully implemented later this year.

Sedgwick is on the steering committee for the [Medicare Advocacy Recovery Coalition \(MARC\)](#), and was actively involved in the passage of the SMART Act and its implementation. We are optimistic that these changes will have a positive impact on the claims handling process for the entire industry.

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