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In Review:

- Insurers are gearing up for year-end targets. We recommend taking the necessary steps now to prevent your claim from being targeted.
- Be very careful of pre-existing conditions when going out on disability less than 12 months of your effective date of coverage.
- Physicians can inform disability insurers not to make frequent calls to their offices. This is not something the insured can do effectively.
- The new generation of peer reviewers and IME physicians are placing insureds and others at risk by rendering opinions which are not medically sound.
- Disabilities related to “mold” and chemical sensitivity will receive a “lion’s share” of risk resources. Insurers do not like paying for these types of claims under any circumstances. Insurance RNs and physicians may not understand the objective evidence submitted in support of such claims.
- Senate Finance Committee considers changes to ERISA but limits testimony to be heard.

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Year-End Slam-Dunks—Editorial by Linda Nee

Recently I wrote an article on Lindanee’s Blog reminding insureds about end-of-the-year “biggest bang for the buck” claim denials. Although 2010 hit most disability insurers with less than favorable results the “hungry vulture” Lindanee’s Blog post rated very low.

Avoiding the buzzards won’t save claims from unfair claim denials in December. I fully expect all US insurers to engage in aggressive hunts for potentially vulnerable claimants.

Although Unum reported better than average earnings in 2010 other indicators such as a pitiful 2% merit increase showed much lower probably results.

It is important to remember when a disability insurer, such as Unum, reports better earnings the company is denying more claims. Actually, they didn’t have to tell me that; I see it everyday.

By 4th quarter (October) disability insurers will be scrambling to hunt out and deny every claim they can get their hands on. The

beginning of 4th quarter is only two months away and I can guarantee every claims manager is already meeting with his/her team in anticipation of “focus days” and other activities.

In fairness to disability insurers all companies will tell you they have the right to “seek out” and locate any and all claims in their backlog to determine if there are claims which are fraudulent or those that should not have been paid.

Unum will say it has the right to “investigate” any claim at any time. And, it would be right.

However, what is objectionable is the “stacking of the deck” against the insured with management designed strategies specifically designed to deny legitimate claims, or claims that should be paid. These “strategies” so-called seem to come together in 4th quarter because of the urgent need to show profits by year-end.

While I have never been opposed to terminating claims that should

not be paid I am NOT in support of deliberate malice and intent to harm insureds by picking and choosing those claims with the highest financial reserves; or targeting occupations and impairments.

Unum, for example, is specifically good at targeting groups of claims and then engaging in exactly the types of “risk management” that would credibly document a claim denial.

In 4th quarter DCS will be making specific suggestions to our clients of how to avoid the inevitable denials of claims as year-end targets. Although there are no guarantees of avoiding the “hungry vultures” claimants can certainly control what goes into their file and now is the time to do it.

Disability insurance is big business making millions each year in profits by denying claims that should be paid. The process may be a turkey shoot, but we can do our best to avoid it. Starting now is a good idea.

Another Reminder Regarding Pre-Ex Provisions

We want to remind everyone to exercise great care in filing a disability when working less than 12 months for your employer. Although there are many combinations of pre-existing conditions, the most common is the 3/12 provision.

If you go out on disability within 12 months of your effective date of coverage (EDOC), the insurance company will do a pre-existing investigation looking back three months prior to your effective date of coverage. Notice the provision uses “effective date of coverage for the policy” NOT your date of hire even though these dates can be the same.

DCS recommends all employees to read the employer sponsored LTD plan as soon as you are covered.

This is very important if you have to go out on disability for a period of time. Already in 2010 several clients have come to us with dates of disability within 1 week of the 12 month period. Oops.

If you wait 12 months before filing a claim, pre-existing conditions are not an issue. This presumes, of course, nothing of a sudden or catastrophic nature happens. Nevertheless, don’t get caught in a pre-existing condition denial if you don’t have to—wait the 12 months.



There is a growing frustration among physicians who support disability insureds because of the upkeep and continuous disruptions from disability insurers seeking information.

Make no mistake. Insurers know quite well how to intimidate a primary care physician. Frequent, harassing calls are deliberate, planned, and required as part of file maintenance procedures. Internal physician consultants have an agenda in calling your doc. Unfortunately, Unum for example, often achieves its goal because insureds have not discussed a plan of action with their physicians ahead of time.

Besides this is something the doctor can best do effectively to achieve the desired result. Insured complaints to their claims handlers are not as effective after the fact.

Doctors can allow the vexatious calls, or NOT allow them. In any case physicians are getting “fed up” with the entire insurance process to the point of not taking on any new “disability claim patients.”

In my opinion physicians need to step up to the plate and stop the harassing calls.

Have you been in a water damaged building lately? Do you have problems thinking, remembering things or with word recall? Are you more tired than normal? Are you unmotivated, depressed or have unusually high levels of serious system symptoms that can't be explained? Do you have tingling or twitching or other central nervous system symptoms that can't be explained?

If you have one or more of these unexplainable symptoms you may have been exposed to a biotoxin. If your symptoms are preventing you from working, you may have to apply for disability, but don't hold your breath. Disability insurers aren't paying claims for toxic mold contamination, at least not yet.

Physicians Need to Nip Harassing Calls in the Bud

Unum appears to be ranking number 1 in making harassing, repetitive calls to physician offices requesting medical records, completed narratives, doc-to-doc calls, and filled out forms.

Physicians often do not realize how much power they have in responding to insurance companies.

I asked one physician why he didn't just “nip it in the bud” by asking Unum to stop calling the office and disrupting his patient appointments. His response was, “I thought I had to cooperate to give professional courtesy.”

I'm sure physicians must know insurance-paid docs aren't practicing physicians and as such do not have “patients” which might benefit from professional medical exchanges between physicians.

Unum's internal physician consultants are paid to review patient files and write up documentation supporting, or “rubber stamping” claim denials. Seems logical that without “patients” there's no commitment for “professional courtesy.”

Even so, physicians can control their own administrative office procedures by informing office managers not take calls from

insurance companies. An appropriate response might be: *“I'm sorry but we have an office policy of not responding to requests verbally on the phone. Please submit all requests to Dr. Smith in writing.”* Vexatious repetitive requests are only going to get worse in the coming months.

Some physicians actually do get aggressive and angry with frequent calls. Recently, one doc pulled the phone from the receptionist and told Unum not to call his office anymore. In general, physicians can control these requests by “nipping it in the bud” right away. Talk to your doc about this issue.

SIRS-WDB, Chemical Sensitivity and Toxic Mold Claims

While I was still working for Unum, the RNs continuously joked about those who claimed disability because “they were allergic to their environment, had chemical sensitivity or complained about mold.” As one RN suggested, “let's tie this claimant to a tree and if she isn't dead the next day, then she isn't allergic to her environment.”

As backward as that sounds, disability insurers are still unconvinced “chemicals and toxic mold in the environment cause permanent disability.” In fact, Unum still refuses to pay benefits caused by sensitivity to chemicals and mold.

According to my research helped along by several DCS clients, I was able to determine toxic mold can in fact cause a wide variety of health problems which vary from person to person.

For the last 5 years or so it has been suspected that indoor and outdoor exposures may also cause systemic long-term illness. In October 2006 the late Senator Kennedy requested the GAO to revisit our understanding of the effects of mold. As a result a committee was appointed to oversee how mold and other toxic agents affect

public health.

Another group called ACHEMIC (Action Committee on the Health Effects of Mold, Microbes and Indoor Contaminants) was formed to “promote the truth in health policy about the adverse effects of mold, microbes and indoor contaminants.” (ACHEMIC.com)

On July 27, 2010, a new scholarly paper was announced giving a name to the illness that has been causing illness around the globe for the last several decades.

The name of the illness is Chronic Inflammatory Response Syndrome Caused by Exposure to the Interior Environment of Water-Damaged Buildings (CIRS-WDB). Those diagnosed with CIRS should use ICD-9 Code 995.94 to identify the illness specifically.

Exposure to mycotoxins may occur via enteric, inhalation, or direct contact to skin. Other symptoms of exposure include respiratory complaints, headaches, general debilitating pains, nose bleeding, fevers, cough, memory loss, depression

mood swings, sleep disturbances, anxiety, chronic fatigue, vertigo/dizziness, and in some cases, seizures.

According to researchers at the Mayo Clinic “the cause of most chronic sinus infections is an immune system response to fungus.”

In addition, a study by Berkeley labs and the EPA confirm “of the 21.8 million people reported to have asthma in the U.S. approximately 4.6 million cases are estimated to be attributable to dampness and mold exposure in the home.”

Unfortunately, exposure to any number of chemicals and toxins in the environment can also cause systemic illness affecting every body system, sometimes with disastrous results, even death. CIRS is a very serious disease resulting from toxin exposures in both indoor and outdoor environments.

The question is, at what point does CIRS become a disability preventing an individual from working? Insurers overwhelmingly respond—NEVER.

CIRS-WDB....continued

The problem with CIRS as a cause of disability stems from the fact that there are many people able to continue working with significant symptoms. Then, there are those who claim they can't work.

From the perspective of the disability insurers those who claim total disability due to toxic mold exposure and chemical sensitivity obviously have something else wrong with them i.e. a mental disorder, fibromyalgia or chronic fatigue. Lyme disease perhaps. Unum might say for example a person suffering from frequent respiratory infections can still maintain a full-time job.

Then, there's the problem of obtaining sufficient medical history notes to prove you say what you and your doctor say you have. Most records I've seen supporting this type of disability are from allergists who report frequent sinusitis and sore throats. More sophisticated

medical laboratory testing showing "markers" identified as CIRS ARE NOT understood by insurance physicians and nurses who don't keep up with new medical trends. Disability insurers have taken positions that do not support disability claimed to be caused by mold, chemicals in the workplace, or gasses emitted by computer equipment. It's too far fetched, the companies claim, to consider a runny nose as a cause of disability.

However, medical sources are now finding exposures to biotoxins can cause serious, long-term illness. Still insurers are reluctant to pay these claims even when they are credible. It will no doubt take much longer for insurers to be convinced CIRS is a credible cause of permanent disability and begin to pay legitimate claims.

In the meantime, CIRS remains a very serious disease affecting the immune sys-

tem and all of the systems of the body. The problem for those who find themselves unable to work is proving, objectively that it is environmental toxins causing disease and cessation of work.

In addition, there are very few physician experts in the country who understand laboratory markers and how CIRS can seriously affect someone's ability to work. These are the dots that are NOT being connected....how CIRS and toxic infection prevents persons from working.

It would appear the medical community knows of the existence of toxic mold contamination, but because it affects each person differently, there can be no standard set for claims of total disability. Until these standards can be highly visible in the majority of persons affected, disability insurers are likely to pooh-pooh claims for disability. And, that's not good.

Senate Finance Committee Hearing to Consider Changes in ERISA

Several weeks ago I was contacted by two interns working for the Senate Finance Committee looking for information concerning ERISA, claims practices and Unum. A week later I was asked to testify before the Committee, but was dropped from the list when it was discovered Republicans on the Committee might use Unum to divert from the real issues of ERISA and give me a hard time. I was also "bumped from the list" for a judge. That's politics!

Gee....I fight for fairness and objective claim review for insureds and claimants. Insurance companies in general give "the Erin Brockovich of the insurance industry" a hard time. Ms. Brockovich is a well known consumer advocate, and so am I.

Nevertheless, the Senate Finance Committee IS considering changing ERISA and possibly enacting changes which will significantly discourage disability insurers from targeting employer-sponsored benefit policies.

In fact, proposed changes may even encourage fee-hungry attorneys to litigate claims they would ordinarily snub their noses at. Opening the door

to state jurisdiction is a good thing for insureds because it allows the opportunity for punitive damages. Attorneys will scramble to get ERISA claims rather than turning them away.

According to information I was given by Alan Cohen, an intern of the committee, the five witnesses to testify include an attorney, a rehabilitation consultant, a judge, a representative from the social security administration and a member of the insurance trade organization.

These witnesses are not the "heavies" in the insurance industry and I'm worried if Congress will be hearing the "whole story." I would have thought Rick Friedman from Washington State, or Ray Bourhis might have been more credible attorney witnesses.

Even Attorney Rick Quadrino from New York or Chris Sanspree from South Carolina would have been a better choice before the committee rather than Mark DeBofsky although Attorney DeBofsky writes quite a bit about ERISA.

Ray Bourhis won the infamous lawsuit for Joan Hangartner in California and Rick Friedman is considered to be one of the best litigating attorneys in the United

States, winning considerable punitive damages for his clients.

Rehabilitation representatives have a restricted focus on the claims process and may or may not be able to describe internal claims review processes that are unfair or unlawful particularly if the individual has not actually worked managing claims for an insurance company.

So yes, I'm worried about the outcome of the hearing. Politically, Republicans probably won't support changes that affect the middle class. Democrats need these changes to bolster polls in November.

Descriptions of the specific changes I discussed with the Committee interns are described on Lindanee's Blog and I encourage you to visit the Blog if you are interested.

I also encourage you to write to Committee members (listed on the Blog) and express your opinions about your disability insurer and how your claim was reviewed unfairly. This is a time when your opinions can mean the difference between ERISA change and no change at all. Let's all hope for the best.

Are Insurance-Paid Physicians Risking the Lives of Insureds?

Anyone who has a medical license should be considered a “doctor” first and an employee of an insurance company second. While the growing trend in disability insurance is to hire physicians and vendor groups to “rubber stamp” denial decisions little public attention is being paid to how these insurance-paid physicians risk the insured’s health and well being.

A good case in point is a claim for an HIV/AIDS affected neonatologist who had two heart attacks and nine stents placed. Although he tried to continue working, it became clear he was not able to continue to work in that kind of a stressful environment. Continuing to work with such catastrophic illness places the physician as well as infants at risk.

Sun Life employed one of their cheap claim-killers (PDA) to document the physician could work and that stress was not a risk factor for CAD patients. Professional Disability Associates (PDA), a group of physicians who writes reports exclusively for insurers and third-party administrators actually documented an opinion that is not medically sound, or generally accepted in the medical community.

Any reasonable person or physician would conclude an individual with such a poor medical condition would not be able to withstand the rigors of such an intensive occupation.

With the help of several cardiologists and other physicians I was able to locate approximately 39 medical journal articles directly connecting “stress” as risk factors to those diagnosed with CAD (coronary artery disease).

How can Sun Life’s physician state that stress has no bearing on CAD, when medical science says it does? Clearly, the physician who rendered such a report should be held accountable to his licensing board.

Another example DCS had in 2009 is Unum’s sending an anesthesiologist disabled from drug addiction/recovery back into surgery. The State of Illinois informed this physician it would not allow him to resume his full-time workload of 60+ hours for 12 months—but Unum’s docs wanted this physician back into surgery full-time. Does that make sense? Makes you wonder.

Another example involved a medical review for one of my claimants while I was still employed by Unum. My client had a heart transplant and had an Ejection Fraction of 15%. His occupation was that of heavy truck driver who was responsible for loading and unloading his truck.

A person with a 15% Ejection Fraction is likely to have shortness of breath and difficulty breathing with any type of physical exertion. Heavy physical activity may even cause severe chest pain, angina, and heart attack.

The act of pushing down foot pedals and changing gears would cause this claimant to have shortness of breath and could cause an accident on the road. Heavy truck drivers are also required to do considerable lifting. What could Unum’s RN have been thinking? The decision made by Unum’s RN placed not only the insured at risk, but any number of drivers on the interstate highways.

Then, of course, DCS had a Unum client and his wife sent to a red light district for an IME, complete with call girls standing nearby. Recently, Unum insisted one of our clients ride 6 hours in a dirty, smelly yellow cab with a wobbly wheel to attend an IME in another state.

Quite often, IME physicians occupy temporary offices in scary locations so they can provide cheap services to the insurance companies. Millions of dollars are paid to IME physicians who review medical records and write reports the insurance company can use to terminate claims.

In my opinion though, once the physician crosses the line by documenting facts that are not medically accurate, or generally not accepted by the medical community for money, the physician has engaged in unethical conduct and should be held accountable by his state licensing board for placing the insured and others at risk.

These second and third generation physician claim-killers place insureds, claimants and patients at risk everyday. Medical groups such as MES Solutions and PDA which offer services only to insurance companies and third-party administrators clearly have an agenda of “rubber stamping” business decisions to deny more claims.

Instead of providing fairness and objectivity to the peer and IME review process, these organizations (and their physicians) are paid by disability insurers to render decisions favorable to them. And, the costs are fairly cheap. Organizations such as MES Solutions and PDA give insurance companies exactly what they pay for—increased numbers of terminated claims.

Bad enough the entire disability review process is stacked against the insured from beginning to end, but the introduction of unethical physicians and third-party reviewers looking to capitalize on an endless source of insurance fees denies insureds of their right to objective and unprejudiced file

reviews. There is no question that with the amount of money to be had in the IME and claim review process more and more physicians are leaving their practices for the lucrative money-making schemes of insurance companies.

One Unum IME physician who came to our attention conducted IMEs from his home so that other patients in his office wouldn’t be aware he was also working for an insurance company. Nice.

Other IME physicians actually offer insureds medical advice just from reviewing medical records and without a treatment history of the insured. This can be very dangerous and can place the insured at risk if the IME physician lacks all of the medical records from all treating physicians.

Only primary care physicians can document and direct “appropriate care.” Anytime an insurance company tries to force an insured into a certain type of medical care upon threat of termination of claim, the insurance company is acting unlawfully and places the insured at grave medical risk.

Insurance companies are NOT medical providers and cannot force any insured to seek a certain type of medical treatment as a condition of payment of claim.

What’s the solution you might ask? I have suggested for many years that all disability insurers be required to contribute to a state regulated IME reserve fund for the purpose of paying for IMEs and medical reviews from an independent state agency, not connected or paid for by any insurance company.

In fact, the reviewer will not be told whether the insured or the insurance company is requesting the review. Insureds, for a minimal fee may also request a paper or medical review from this agency.

Although the above would appear to be a good solution, the disability insurers will never give up their control over an independent medical review because the IME process is their biggest “risk management” strategy leading to claim terminations and profits.

If the system were made to be fair, it would have no purpose other than to cost the insurers more money. The insurance industry would never turn over their control or ability to obtain “tainted” medical information to a truly independent agency.



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This newsletter is dedicated to the thousands of American middle class workers who are treated unfairly by America's disability insurers when a period of unforeseen disability makes it necessary to apply for ERISA benefits. The mission of Disability Claims Solutions, Inc. is to provide claimants and insureds with information at least equal to that of the disability insurers. We strongly recommend that you become knowledgeable with the disability insurance process and obtain help when needed.

Disability Claims Solutions Inc. provides insureds and claimants with expert services and case management related to disability and long-term care claims. We also provide Social Security Advocacy and policy audits for a fee. For more information please contact Linda Nee at 207-793-4593. Thank you.

Also, we invite you to keep up with daily news regarding disability claims at Lindanee's Blog located at:

<http://liindanee.wordpress.com>