

BUSINESS INSURANCE.

Workers compensation industry braces for impact of medical marijuana

Employers urged to set policies on marijuana

Posted On: Dec. 15, 2013 6:00 AM CST



Sheena Harrison (<mailto:smharrison@businessinsurance.com>)

ADVERTISEMENT



The legalization of medical marijuana in nearly two dozen states has the workers compensation industry on guard for a potential surge of claims seeking payment for the drug.



The National Council on Compensation Insurance Inc. highlighted medical marijuana as one of the top emerging workers

comp issues to watch in 2014, and says workers comp insurers already are getting an increasing number of requests to pay for prescribed marijuana.

“Because so many states are approving it and the guidelines for use are so vague, it has the potential of becoming a very big deal and it is fraught with danger,” said Phil Walls, chief clinical and compliance officer at Matrix Healthcare Services Inc., a Tampa, Fla.-based pharmacy benefit manager.

Some experts say the lack of approval from the U.S. Food and Drug Administration and a federal law banning its use should preclude most workers comp insurers from paying for marijuana as a treatment for injured workers. However, others in the industry think federal law won't be enough to stop more marijuana claims from creeping into the workers comp market. Also, they worry the drug could impair injured workers while increasing comp costs and lengthening the period before people can return to work.

For now, workers comp insiders are still determining how best to approach the possibility of getting a much heavier volume of claims for medical marijuana usage. “I don't really believe it's been looked at as a workers comp issue to date,” said Lori Lovgren, division executive-state relations for Boca Raton, Fla.-based NCCI.

Rita Nowak, vice president of commercial lines and research for the Property Casualty Insurers Association of America in Des Plaines, Ill., said insurers are watching closely to see how medical marijuana legislation continues to play out nationwide. In addition states that have approved the use of marijuana for medicinal purposes, Colorado, Washington and the city of Portland, Maine, passed bills this year legalizing recreational marijuana use.

Workers comp experts are divided on whether the state laws, as well as similar legalization bills being considered in additional states, could prompt medical marijuana to be accepted as a treatment for injured workers.

“It's not a huge trend right now,” said Mark Pew, senior vice president of product development at Prium, a Duluth, Ga.-based medical management company. “But I think if you don't lay the framework for how you're going to deal with it, if and when it does arrive as a major trend, the ones that prepared for it are going to be much better situated to address it properly.”

Mark Walls, St. Louis-based senior vice president and workers compensation market research leader at Marsh Inc., said since marijuana is not FDA-approved to treat any medical conditions that likely will keep marijuana out of the workers comp mainstream. And he said several states have laws specifically prohibiting workers comp insurers from paying for marijuana, including Colorado, Michigan, Montana, Oregon and Vermont.

“I don't doubt for a second we're going to see more and more requests to cover medical marijuana under workers compensation,” he said. “But, quite frankly, I don't expect anybody will actually pay for it under workers compensation until they're ordered to do so” by a judge.

Joseph Paduda, principal of Madison, Conn.-based consulting firm Health Strategy Associates L.L.C., agreed, saying that medical marijuana “generates a lot of talk, but there's very little ... prescribing or payment activity that actually occurs.”

However, Phil Walls of Matrix said, although medical marijuana is a “small” issue in workers comp right now, he thinks it could become a much bigger problem. While federal law may prohibit widespread marijuana workers comp payments, he thinks those laws may not hold up in the long term. “I, in no way, want the federal government to approve it, (but) I think they will because we're repeating history,” he said. “This is exactly what happened during Prohibition. All talk changed from concerns about morality ... to how much money we're losing from tax revenue.”

Phil Walls and Prium's Mr. Pew also think medical marijuana is likely to be prescribed in ways that keep it off the radar of insurers, third-party administrators and pharmacy benefit managers.

While pharmacy benefit managers and certain states have workers comp prescription formularies that typically exclude marijuana as a permissible medication, Mr. Pew said claims adjusters could still approve marijuana payments if they have lax attitudes about the drug.

“I don't think it's going to come down to 100% of opinion, but I think that certainly is going to influence it,” Mr. Pew said.

Phil Walls said pharmacy benefit managers such as Matrix would be unlikely to review medical marijuana claims because patients typically receive the drug through retail pharmacies or could receive it directly from physicians.

This eliminates a paper trail for workers comp payers to review for potential drug abuse or dangerous

interactions between marijuana and other medications, he said.

While the known side effects of marijuana are less serious than those of opioid pain relievers, Mr. Pew said the drug also could impair injured workers in a way that prevents them from returning to work or performing their jobs safely. “It might be a quicker way for them to get back (to work) and kind of mellow out, but do you really want them in that state while they're working at the job?” he said.

Across the board, experts say workers comp payers should draft policies now for how they plan to address medical marijuana claims.

“The first tack that the employer or the TPA or the insurance company should take, is what's the medical necessity of this (prescription) and where's the medical evidence that supports the use of (marijuana) for this particular claimant,” Mr. Paduda said. “That request will be met with deafening silence.”

Mr. Pew said employers should establish a medical marijuana policy with their workers comp TPAs and pharmacy benefit managers, so claims handlers can use uniform standards, rather than personal opinions, to consider medical marijuana requests.

Workers comp experts said payers should be prepared to flatly deny payment for marijuana claims in workers comp. “The fact that it's not FDA-approved for anything is usually enough to deny compensability ... under workers compensation,” Mark Walls said.
