Alternative Solutions to Pain Management

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From the perspective of an attorney that only represents Claimants in workers compensation cases, the topic of pain management can be a sore subject.

Consider this: Americans consume 80% of all opiates and 99% of all the hydrocodone dispensed world-wide.¹ And, there is a growing problem of opioid abuse among the injured worker population.² Claimants in workers compensation cases all deal with pain in different ways, and it is the way the pain is being treated in the workers compensation cases that needs to be examined.

Contrary to what many may think, from the perspective of a claimant’s attorney, chronic pain issues in a workers compensation case are not something viewed as good for the case. Chronic pain cases take longer in treatment, see multiple physicians, are slower to get to MMI, and the Claimants generally in the end have a lower satisfaction with treatment and the workers compensation system in general.

Claimant’s with chronic pain feel that their case should never be “over” and they should never be placed at MMI because they are not “fixed” -- which results in requests for further treatment, second opinions, court-ordered neutral opinions and delay, delay, delay. Study after study has shown that patients being treated for chronic pain under workers compensation are

² http://www.insurancejournal.com/news/national/2013/05/17/292528.htm
generally more distressed and have poorer outcomes both clinically and vocationally than non-compensated patients.³

There are a number of propositions as to why patients being treated under compensable schemes generally have poorer outcomes relative to their non-compensated counterparts. It is too simplistic to attribute negative outcomes in the work injury arena solely to the potential for financial gain. ⁴

One of the most prevalent theories is that of the inherent system delays in workers compensation. In most cases, before treatment is authorized, there must be an investigation, paperwork, claims filed, more investigation, adjuster approval, and the fact that the workers compensation insurance carrier can select the treating doctor, all contribute to a long process with delays that can be disastrous in cases where pain therapy is considered critical in the early post-injury phase to prevent the development of major disability. ⁵ The longer a claimant is in pain, the more likely the case will turn into a chronic pain situation.

In addition to system delays, the adversarial nature of workers compensation means that the injured worker must demonstrate in the first instance and over time that they have suffered a loss and are truly injured. Given that the experience of pain is purely subjective, this requires the injured workers to find some means of convincing others that their problems are genuine, which directly contradicts notions of rehabilitation and recovery.

As noted by Mendelson et al.,

“If you have to prove that you are ill, not only can you not get well but you are also likely to sink further into the abyss of vulnerability and to learn ‘illness behavior’ in the process. The diagnosis of ‘persistent pain disorder’ (ICD-10) or ‘pain disorder associated with psychological factors’ (DSM-IV) may denote iatrogenicity”.⁶

Iatrogenicity is a medical disorder caused by the diagnosis, manner, or treatment of a physician. This demonstrates that pain is truly a combination of physiological and psychological factors – which only adds to the challenge of effective treatment of pain.

Any effective alternative to the traditional pain management medications should be welcomed by all parties to a workers compensation case from the claimant and his attorney to the insurance adjuster and attorney, judge and physicians. Chronic pain is a problem for all involved and an acceptable alternative can only serve to make for a more efficient and effective workers compensation system in Kansas.

³ http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3717827/
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