U.S. Department of Labor

Office of Workers' Compensation Programs
Division of Energy Employees Occupational
Illness Compensation
Washington, DC 20210

MEMORANDUM

DATE: September 22, 2017

TO: RACHEL LEITON
Director, DEEOIC

FROM: JOHN VANCE
Branch Chief, Policy, Regulations, and Procedures
DEEOIC

RE: 4th QUARTER FY 2016 CMC AUDIT REPORT

Below is the analysis of five cases determined to have a deficient Contract Medical Consultant (CMC) report based on a review by the Division of Energy Employees Occupational Illness Compensation (DEEOIC) Medical Director.

1. [redacted] (Case ID: [redacted])

Impairment Evaluation
Report date: August [redacted] 2016 (Dr. [redacted])
Condition: Accepted: ICD 9 code 173.11, Basal cell carcinoma of eyelid, including canthus
Accepted: ICD 9 code 173.21, Basal cell carcinoma of skin of ear and external auditory canal
Accepted: ICD 9 code 173.22, Squamous cell carcinoma of skin of ear and external auditory canal
Accepted: ICD 9 code 173.31, Basal cell carcinoma of skin of other and unspecified parts of face/ICD 10 code C44.319
Accepted: ICD 9 code 173.32, Squamous cell carcinoma of skin of other and unspecified parts of face
Accepted: ICD 9 code 173.41, Basal cell carcinoma of scalp and skin of neck
Accepted: ICD 9 code 173.51, Basal cell carcinoma of skin of trunk, except scrotum
Accepted: ICD 9 code 173.52, Squamous cell carcinoma of skin of trunk, except scrotum
Accepted: ICD 9 code 173.61, Basal cell carcinoma of skin of upper limb, including shoulder

Accepted: ICD 9 code 173.62, Squamous cell carcinoma of skin of upper limb, including shoulder

The Reviewer states that the rating was not consistent with the evidence in the file. Dr. [redacted] placed the claimant in Class 2 on Table 8-2, Page 178, but the claimant has no limitations to his performance of ADLs. He should have been placed in Class 1. The ADL questionnaire dated March 15, 2016 is germane. This would have changed the final determination in this case.

Since the Reviewer is well-versed in the use of the AMA Guides, I would accept his opinion that the CMC incorrectly placed the claimant in Class 2 based on the findings in the ADLs. On October 4, 2016, the FAB issued a final decision to accept the Part E claim for 10% whole person impairment due to multiple skin cancers. The claimant received compensation of $[redacted]

*It is noted that the CMC's report of August [redacted] 2016 contains incorrect claimant information. The correct file number should be [redacted]. This error is found on the top of all four pages of the report. The first line of the report incorrectly states the claimant's name and file number (should be [redacted], file number [redacted] not [redacted], file number [redacted]). In the section "Case evaluation as it pertains to the multiple skin cancers," the report mentions "**Mr.** [redacted]" accepted condition. This case file is for [redacted]. This error is also found twice in the section "Impairment review for 48 listed skin cancers." The case file was reviewed to ensure that this report was for claimant, [redacted]*

RECOMMENDATION: Given the likelihood that the error resulted in a higher than warranted impairment, no action is necessary. QTC must impose better quality control measures to mitigate similar errors on future impairment submissions.

2. [redacted] – [redacted] (Case ID: [redacted])
[redacted]
Second Opinion Evaluation – Home Health Care necessity
Report date: July [redacted] 2016 (Dr. [redacted])
Condition: Accepted: ICD 9 code 173.31, Basal cell carcinoma of skin of other and unspecified parts of face
Accepted: ICD 9 code 205.9, Unspecified myeloid leukemia
Accepted: ICD 9 code 492.8, Other emphysema
Accepted: ICD 9 code 496, Chronic airway obstruction, not elsewhere classified

The Reviewer states that it is not clear whether the appropriate medical specialist was assigned. (The report does not include any indication of Dr. [redacted] specialty. Also, Dr. [redacted] attempted to apportion Mr. [redacted] need for home healthcare among his various diagnoses. The latter deficiency may change the final determination in this case.)

The Reviewer is correct in that Dr. [redacted] specialty is not provided in the CMC's report of July [redacted] 2016. A review of the case file shows that the district office requested an oncologist second opinion; however, the case was referred to Dr. [redacted] whose specialty is Internal Medicine (see appointment letter of June 27, 2016).

As far as the Reviewer's determination that Dr. [redacted] attempted to apportion the claimant's need for home health care among various diagnoses, I agree that this is evident in the report, but do not find that this is a real deficiency given the CE's request for a review regarding the claimant's need for home health care. Dr. [redacted] opined that the claimant's need for home health care is 50% related to the accepted condition of CML and that home assistance for 4 hours per day, 7 days per week correlates to the accepted condition. On August 18, 2016, the district office approved home health care at the requested level for a six month period. I do not see that any additional action needs to be taken at this time.

RECOMMENDATION: QTC must impose better quality control to ensure proper assignment to requested specialty and that CMCs include their specialty on reports.

3. [redacted] (Case ID: [redacted])
[redacted]
Impairment Evaluation
Report date: July [redacted] 2016 (Dr. [redacted])
Condition: Accepted: ICD 10 code C79.51, Secondary malignant neoplasm of bone

The Reviewer states that the CMC did not state that the claimant was at MMI and appropriate chapters and tables of the *AMA Guides* were not utilized. (Dr. [redacted] used Tables 5-11 on Page 106 and 5-12 on Page 107; he should have used the criteria in Section 10.10c on Page 240. Dr. [redacted] used Tables 5-11 on Page 106 and 5-12 on Page 107, which are applicable to lung cancer. He should have used the criteria in Section 10.10c on Page 240, which apply to permanent impairment due to metabolic bone disease. This would have changed the final determination in this case.)

*In regards to the CMC not stating that the claimant was at MMI, this is a **terminal** case, so a determination regarding MMI was not required. Therefore, no error is found. As it relates to the CMC's improper use of chapters and tables of the AMA Guides for this impairment evaluation, since the Reviewer is well-versed in the use of the AMA Guides, I would accept his opinion regarding the correct usage of the AMA Guides. FAB issued a final decision on August 2, 2016 awarding the claimant impairment benefits of $[redacted]. Since the Reviewer indicates that the CMC's report is in error, the impairment award may also be in error.*

RECOMMENDATION: Recommend that QTC redo the impairment correctly to determine if a higher rating exists. If a correct rating results in higher award, DEEOIC must take action to reopen the case to issue a corrected final decision for impairment.

4. [redacted] – [redacted] (Case ID: [redacted])
[redacted]
Second Opinion Evaluation – Home Health Care necessity
Report date: July [redacted] 2016 (Dr. [redacted])
Condition: Accepted: ICD 9 code 490, Bronchitis, not specified as acute or chronic
Accepted: ICD 9 code 491.0, Simple chronic bronchitis
Accepted: ICD 9 code 496, Chronic airway obstruction, not elsewhere classified
Accepted: ICD 9 code 799.3, Debility, unspecified

The Reviewer states that the CMC did not review the claimant's subjective complaints and the report did not contain the signed Potential Conflict of Interest Statement.

A review of the CMC's July [redacted] 2016 report shows that the Reviewer is correct in that the claimant's subjective complaints are not included and there is no Potential Conflict of Interest Statement in the report.

On August 26, 2016, the district office issued a letter decision approving home health care for an additional six month period.

I do not see that any additional action is needed on this issue.

RECOMMENDATION: The contractor should remind the CMC of the requirements for a complete medical report (which includes the patient's subjective complaints). Additionally, the CMC should be advised to include the Potential Conflict of Interest Statement in his/her report, specifically consulting with Dr. [redacted] about the report in question.

5. [redacted] – [redacted] (Case ID: [redacted])
Cleveland District Office
Impairment Evaluation
Report date: March [redacted] 2016 (Dr. [redacted])
Condition: Accepted: ICD 9 code 205.0, Myeloid leukemia acute
Accepted: ICD 9 code 256.31, Premature menopause
Accepted: ICD 9 code 714.0, Rheumatoid arthritis

The Reviewer states that the CMC did not provide a whole body impairment rating for only the accepted conditions. (Neither anemia nor thrombocytopenia are accepted conditions; both are functions of the claimants AML. The SOAF is dated March 2, 2016; the OWCP Imaging System (OIS) shows that the SOAF was transmitted to QTC on March 3, 2016; Dr. [redacted] impairment report refers to a laboratory report dated August 31, 2015 and an ADL Questionnaire dated October 27, 2015--yet his report is dated March [redacted] 2015. In addition, Dr. [redacted] incorrectly applied Table 9-2 on Page 193 and Table 9-4 on Page 203 to Ms. [redacted] case; neither anemia nor thrombocytopenia are

accepted conditions. Both the claimant's anemia and thrombocytopenia are functions of her AML. Thus, Dr. [redacted] should only have applied Table 9-3 on Page 200. This would have changed the final determination in this case.)

Since the Reviewer is well-versed in the use of the AMA Guides, I would accept his opinion that the CMC incorrectly applied Tables 9-2 and 9-4 to this case. The conditions of anemia and thrombocytopenia could potentially be accepted as consequential illnesses due to leukemia. Since these conditions have not been accepted as consequential, the rating must be based solely on leukemia. FAB issued a final decision on March 17, 2016, awarding the employee $[redacted] in compensation benefits for 44% impairment for acute myeloid leukemia. It is noted that the date of Dr.[redacted] report is March[redacted] 2015. The date should be March[redacted] ***2016.***

<u>RECOMMENDATION</u>: Recommend that QTC redo the impairment correctly to determine if a higher rating exists. If a correct rating results in higher award, DEEOIC must take action to reopen the case to issue a corrected final decision for impairment.