

Publications

Labor and Employment Alert: Proposed Rule Designed To Improve Outcomes Following Low Back Injuries

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The Bureau of Workers' Compensation is considering a new rule to discourage the use of opioid medication and surgery for low back injuries in favor of conservative treatment. While the rule does not prohibit the use of opioids to manage pain, it promotes physical therapy, chiropractic care, anti-inflammatories and other nonsurgical treatments instead. If adopted, the rule would be the second time in two years that the Bureau has acted to restrict opioid use, the first being the prescribing rule that became effective in all claims on January 1, 2017, and limits reimbursement for the use of opioids.

The focus of the proposed rule is to implement best medical practices for treatment of low back injuries and facilitate an injured worker's return to work as quickly as possible. From a study of lumbar fusion outcomes in Ohio, the Bureau concluded that patients treated with fusion were able to return to work only 26% of the time, while workers treated non-surgically were able to return to work 67% of the time. Fusion patients also had an increased use of narcotics, which continued for more than two years in a whopping 76% of fused patients. These and other facts are included in a form entitled "What BWC Wants You to Know About Lumbar Fusion Surgery" that the Bureau would require the patient and the patient's doctors to sign before fusion surgery is authorized. Failure to follow the requirements of the rule may result in the surgery's not being reimbursed and the surgeon's practices being scrutinized.

If the proposed rule is approved, it will be effective January 1, 2018. Consult your Vorys lawyer for further details.