

Chronology of a Workers' Compensation Case

WORKERS' COMPENSATION BASICS COURSE // MODULE 2 OF 8

Chronology of a Workers' Compensation Case

Objectives

Upon completion of this module, participants will be able to

- List the chronology of steps that occur in a workers' compensation claim
- Determine your role in the process
- Identify situations requiring intervention outside the normal progress of a claim

Slide 3 – The claim cycle

The claims cycle has a beginning, middle and end. The beginning includes the injury report, the designated provider, the compensability investigation, and the determination of benefits. The middle part includes benefits administration, return to work options and the determination of lost time. The end of the claim cycle includes a determination of maximum medical improvement, an impairment rating, if any, and the claim closure.

Slide 4 – The worker and the employer

The process begins when an injury occurs at work or the employee recognizes the symptoms of an illness or exposure which may be work related. Depending on the severity of the injury, the worker may seek emergency treatment or may first report the injury to the employer when symptoms appear or the injury occurs.

Slide 5 – Employer and Pinnacol

Highlight the parties who receive a copy of the First Report of Injury

- DOWC
- Employer
- Injured worker

The employer files a First Report of Injury or (FROI) form with Pinnacol. In some type of injuries with statutory requirements, the FROI is filed to the DOWC.

(If the employer does not agree that a work-related injury or disease exists and refuses to file FROI, the employee can file a claim directly with the DOWC.)

Slide 6 – Injured worker and provider

Colorado employers are required by the DOWC to provide a written designated provider list to an injured worker at the onset of any reported injury or illness. For treatment to be authorized (paid by Pinnacol), the employee must seek care with one of the providers or clinics designated by the employer. If the employer does not offer choices, the worker may see a provider of his/her own choice for authorized treatment.

Pinnacol recommends employers designate clinics rather than individual providers when clinics are available. Providers may leave a clinic or move between clinics in larger organizations. Identifying a clinic as one of the designations makes it easier for the worker for continuity of care.

In most instances, the physician who the employee sees on the first visit becomes the authorized treating provider. There can be more than one ATP for an IW.

Slide 7 – Authorized treating physician

Three circumstances where the IW can change providers:

- The insurer and patient agree to change providers
- The IW decides to use his or her option to make one unchallenged change to another designated provider within a 90-day period, or
- A judge orders a change in providers after a hearing

Slide 8 – Variations on ATP

- After emergency visits, the next visit should be with the ATP.
- If an NP or PA sees the IW, by the 3rd visit, a physician must see the patient.

Chiropractors are not included as designated providers in Pinnacol's program due to their limited scope of practice. Chiropractors may become authorized to provide treatment to IWs when reasonable and necessary.

Slide 9 – Pinnacol actions

Once reported, the case is assigned to a claims representative. The CR sends acknowledgement letters to the IW and the employer. The CR also makes an early intervention call to the employer and employee within 48 hours of the report to investigate compensability of the reported injury. The CR will obtain wage information from the employer and explain the benefits and process to the injured worker.

Slide 10 – Compensability investigation

An investigation will determine if Pinnacol will accept the reported injury as compensable. The employer can assist in this determination by obtaining clear, concise, and timely witness statements about the accident. They can notify Pinnacol promptly and take pictures of the area where the reported accident occurred. Investigation can prompt safety training and remediation to prevent recurrences.

If there is a third party responsible for the accident, such as in an auto accident, there may be a reason for Pinnacol to pursue subrogation to obtain reimbursement for some or all of the compensation and benefits paid as a result of the incident.

The CR may review the IW's medical history, research hospital and pharmacy records, and/or request an independent medical exam. The claims rep will communicate with the treating physician to discuss the mechanism of injury as it relates to the injury report.

The medical history provided by the worker and documented by the ATP is critical to the case. Establishing the baseline allows all parties to understand the starting point and other conditions that may affect the healing process.

Slide 11 – Pinnacol's role

- Pinnacol has 20 days to admit liability or deny the claim for compensability
- If the IW misses fewer than three working shifts, no lost time benefits are owed.
- If more than three days or shifts are missed, related medical and lost time (temporary indemnity benefits) are covered.

Slide 12 – Primary Care provider's role

- Assess the cause of the injury or illness
- Render a diagnosis
- Determine physical restrictions

Slide 13 – Causality

- Identify the mechanism of injury or illness
- Determine if the presenting injury or illness is work related based on the medical probability (>50% likely)

Slide 14

If the patient's condition is not work-related, then the employer is not liable for the cost of care under workers' compensation, and medical costs will be the worker's responsibility. Ultimately, compensability of a reported injury is a legal decision that may be determined by a judge.

Slide 15 – Activity and work restrictions

Describe the restrictions for normal activities of daily living or specific job duties such as:

- Restrictions for specific tool use
- Avoid hot or cold environments (outdoor, refrigeration)
- Frequent lifting limited to 10 pounds
- Occasional lifting up to 20 pounds
- No over-head work
- Standing limited to 20 minutes followed by position changes

When determining the ability to work, ask the worker about frequent duties such as something performed daily as well as infrequent tasks such as those performed quarterly. The physician can contact the employer with questions about job duties and whether work tasks are performed in a supervisory role or physically performed. The provider can ask the injured worker about home tasks too.

Slide 16 – Communicating restrictions

- Give a copy of the restrictions to the employee
- Send a copy to the employer
- Respond to employer requests for verifications of the work status and document discussion

Slide 17 – WC164 at initial visit

- The ATP completes and signs form
- The form is submitted to Pinnacol within 14 days of service
- The patient is given a copy
- If the NP or PA completes the form, the ATP must co-sign the form.

Pinnacol's SelectNet program requires submission of the WC164 within three days to respond to worker and employer needs.

Slide 18 – General admission of liability

For claims reported to the DOWC, a general admission of liability is filed to the DOWC. The worker may be entitled to benefits, prescriptions, mileage, and wage replacement along with medical expenses.

Slide 19 – General Admission

Pinnacol must file a new general admission any time the injured employee's compensation benefits are adjusted as a result of changes in work status, such as when the ATP modifies restrictions or the employer modifies job duties.

Slide 20 – Temporary total disability (TTD) benefits

Temporary total disability is paid if a worker misses three or more working days and the ATP says the worker is not able to work the regular job at all or the employer can't provide any modified duty work.

Slide 21 – Ending TTD

TTD benefits cease when any of these situations occur:

- IW returns to modified or full duty
- IW is at MMI
- ATP releases the IW to regular duty
- The ATP releases IW to modified duty offered by the employer and the IW does not accept the duty offer

Slide 22 – Temporary partial disability (TPD)

- Pinnacol pays TPD benefits while the IW is on restrictions and receiving less than full wages
- Worker misses three or more days or work shifts
- ATP gives the IW specific restrictions and the employer has modified duty available to accommodate restrictions

Slide 23 – What happens while an IW is unable to work?

While the injured worker is off work, their Pinnacol claims rep will obtain records from the medical providers to ensure progress and continue to call every two weeks. The claims rep will manage the temporary disability and medical benefits and utilize any needed resources such as medical case management. They will help to coordinate modified duty and return to work utilizing our return to work specialists.

Slide 24 – Follow-up visits

Rule 17 and Rule 16-6

Highlight the three conditions where pre-authorization of payment for treatment is needed from Pinnacol:

- The treatment falls outside the guidelines;
- The treatment is not addressed in the guidelines or fee schedule; or
- The guidelines specifically require pre-authorization.

Slide 25 – Expectations for follow-up visits

- Send the medical records to Pinnacol for each visit.
- Update and provide the treatment plan.
- Interim reports are not required to be sent to the employer.

Slide 26 – Evaluate warning signs

Non-compliance, magnification of symptoms, delayed recovery

Pinnacol monitors the claim for non-compliance and may set up demand appointments when the patient fails to keep appointments. If the provider reports magnification of symptoms or recovery delays, the claims rep can engage additional resources.

Slide 27 – Return to work

Return to work is the cornerstone of claims management. It is in the best interest of the employee to stay working even in modified duty status. This keeps the family roles close to normal and avoids changing family plans such as afterschool care and day care enrollment.

As part of Pinnacol's Return to Work program, specialists are available to assist with modified duty task lists specific to the employee's industry. The ATP will verify the needed work restrictions and the employer will make a verbal offer and a formal modified duty job offer that correlates with the work restrictions.

Slide 28 - Maximum Medical Improvement (MMI)

MMI is determined by the ATP when "no further treatment is reasonably expected to improve the worker's condition." The ATP will advise Pinnacol that the patient has reached MMI. If applicable, the report will indicate the level of permanent medical impairment and any needed maintenance care. If there is impairment, a Level II accredited provider must do the impairment rating.

Pinnacol may request an independent medical exam to determine if MMI has been reached. Pinnacol cannot direct medical care but we can ask what additional treatment will improve the worker's condition if we do not see functional gain after a course of treatments.

Slide 29 – Permanent partial disability (PPD)

PPD is determined by the ATP or a Level II provider. It assesses the permanent medical impairment and is not based on the ability to work. Permanent impairment is based on the injured body part and a Division-prescribed applicable formula.

Slide 30 – Permanent total disability (PTD)

PTD means the worker is unable to earn wages in any type of employment as a result of the work injury. PTD is a legal determination.

Slide 31 – Claim closure and final admission

If Pinnacol accepts the impairment rating from the ATP's report, Pinnacol will file a final admission of liability with the DOWC. The report states what Pinnacol owes and specifies any remaining compensation payments and any maintenance medical care needed for the worker. If there is no objection from the worker, their representative, or the DOWC, the claim is officially closed.

Slide 32 – Remedy for disagreements

If any party disagrees with the impairment rating, they can request an independent medical exam through the Division, called a DIME. The process is expressly stated in Rule 11. The parties can either agree on the DIME physician, or the Division will offer the names of three qualified physicians from the Division's panel who are accredited to perform impairment rating on the body part or medical condition in the case. The parties can each strike an offered physician. Once the examiner has been agreed upon, all the existing records are shared. The requesting party usually will pay the cost of the DIME.

Slide 33 – DIME

In the DIME, the physician can agree or disagree with the ATP's determinations regarding MMI and/or impairment. The DIME physician can determine whether the injured worker has attained MMI, recommend treatment to achieve MMI, and/or assign an appropriate permanent impairment rating.

The DIME opinion is considered binding and can only be overcome by clear and convincing evidence at a hearing.

Slide 34 – Next steps toward closure

An independent medical exam can be requested by either party at any time during the claim. An IME physician can determine the cause and extent of an injury, as well as reasonable, necessary, and related medical treatment. Other avenues for claim closure include a hearing and adjudication, or full and final settlement of a claim.

Slide 35 – Legal representation

- Changes communications process and content
- Increased documentation

Slide 36 – The presence of red flags

- Delayed recovery
- Layoffs at employer or seasonal work is coming to an end
- Previous performance or attendance issues
- Employee never answers phone or has already hired an attorney
- Active in sports, clubs, hunting, bodybuilding or changes in physical appearance

Slide 37 – Special investigations unit (SIU)

Please notify the Pinnacol claims rep if you have any concerns about questionable claims. If you have concerns, Pinnacol can allocate additional resources or employ the special investigations unit for assistance.

Review

- T or F: Chiropractors can be Level I accredited
- A choice of __ physicians, __ clinics OR a combination of these must be presented in writing to the worker at the time of injury. (4 in each blank)
- T or F: Interim WC164 reports without IW duty changes are required to be sent to the employer.
- T or F: If worker misses less than three working shifts, only medical is covered.
- T or F: An NP or PA can see the IW and by the second visit, a physician must see the patient. (By the third visit)
- T or F: If employer does not offer designated provider choices, worker may see a provider of his/her own choice.
- T or F: If worker is seen in ER, the follow-up visits may be at the ER. (The next visit must be with ATP)
- In partial permanent disability, the option for a monetary determination can be scheduled or variable. Which is based on the whole body, the worker's age and the average weekly wage? **(variable)**
- Causality is the determination if the presenting injury or illness is work related based on >50% _____ (medical probability)
- Causality vs compensability is determined by:
- Causality? _____ (Provider)
- Compensability? _____ (Pinnacol, judges, and attorneys)
- ADL stands for _____ (activities of daily living)
- T or F: For modifications or termination of wage replacement benefits, the worker: (true)
 - Returns to work at pre-injury wage,
 - Is released for regular duty by ATP,
 - Voluntarily returns to work on modified duty at reduced or regular wage, or
 - Is placed a maximum medical improvement