USING THE AFFORDABLE CARE ACT TO CLOSE WORKERS COMPENSATION CASES

(c) Teddy Snyder 2013
Teddy Snyder mediates Workers Compensation cases throughout California.

An attorney since 1977, she has concentrated on claim settlement for over 19 years.

Teddy was in the first group LEXIS-NEXIS named as notable persons in Workers Compensation in 2008.

She is a nationally recognized expert on Medicare Secondary Payer and Affordable Care Act issues affecting settlement, having written and spoken extensively on these subjects.

WCMediator.com
Table of Contents

• THE AFFORDABLE CARE ACT 3
• Tip 1 - "AFFORDABLE" or "OBAMA" CARE? 6
• WHY CLOSE A CLAIM? 8
• CASE EVALUATION 10
• ACA's VIRTUAL MALL 11
• Tip 2 - APPLICANTS' COUNSEL 17
• Tip 3 - SETTLEMENT ADVISE 29
• MEDICARE 30
• CAL MEDICONNECT 33
• CONCLUSIONS 36

DISCLAIMER
The information given in this lecture is purely educational. The verbal contents and written materials are not legal advice and should be construed as legal advice. This Access MCLE, LLC lecture is provided to attorneys seeking to fulfill their continuing legal education requirements and no attorney-client relationship exists as a result of purchasing this course.
THE AFFORDABLE CARE ACT
IS MORE COMPREHENSIVE THAN YOU THINK

WCMediator.com
WHAT’S THE BIGGEST OBSTACLE TO CLOSING WORKERS COMPENSATION CLAIMS?

THE ISSUE OF ONGOING MEDICAL CARE
3 FEDERAL STATUTORY PROGRAMS

HEALTH INSURANCE EXCHANGES

MEDI-CAL aka MEDICAID

MEDICARE
NEGOTIATING TIP #1

“AFFORDABLE CARE ACT”
or
“OBAMACARE”

WCMediator.com
WHY WOULD AN APPLICANT CLOSE A CLAIM?

• UNCERTAINTY OF OUTCOME
• CONTROL OF MEDICAL TREATMENT
• NEED FOR CASH
• LEAVE AN ESTATE
• GET ON WITH LIFE
WHY WOULD AN EMPLOYER CLOSE CLAIMS?

- UNCERTAINTY OF OUTCOME
- “STOP THE BLEED”
- INFLATION RISK
- MORTALITY RISK
- RECOVER BONDING EXPENSE
- COST OF ADMINISTRATION
- CLOSE RESERVE
CASE EVALUATION

2 WAYS TO CALCULATE FUTURE MEDICAL EXPENSE:

1) PROJECT PAST MEDICAL EXPENSE OVER ANTICIPATED LIFETIME ADJUSTING FOR CHANGED USAGE AND INFLATION.

2) DETERMINE THE COST OF A PRIVATE INSURANCE PLAN OBTAINED THROUGH THE AFFORDABLE CARE ACT STATE EXCHANGE, COVEREDCA.COM.
ACA’s VIRTUAL SHOPPING MALL FOR PRIVATE HEALTH INSURANCE
ACA IS THE MALL– NOT THE STORE
HOW MUCH WILL IT COST?

ACA GUARANTEES INJURED WORKER WILL BE ABLE TO BUY HEALTH INSURANCE—BUT DOES NOT REGULATE WHAT INSURERS CAN CHARGE.

CALIFORNIA DOES REGULATE THAT.
4 LEVELS OF COVERAGE:

Least expensive Bronze 60% coverage
Silver 70%
Gold 80%

Most expensive Platinum 90%

BUT WHAT ABOUT ALL THE NON-INDUSTRIAL STUFF BEING COVERED?
WHAT ABOUT THOSE SUBSIDIES?

SUBSIDIES ARE CALCULATED BASED ON “MODIFIED ADJUSTED GROSS INCOME” NOT ASSETS

2 KINDS OF SUBSIDIES
UP-FRONT COST ASSISTANCE TAX CREDITS
### Types of Cost Assistance: Health Insurance Financing

<table>
<thead>
<tr>
<th>Help to pay your premium, if you buy in your state's online marketplace</th>
<th>Individual Annual Income</th>
<th>Family of Four Annual Income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Between $11,505-$46,021</td>
<td>Between $23,425-$93,700</td>
</tr>
</tbody>
</table>

Source: [obamacarefacts.com/obamacare-subsidies.php](http://obamacarefacts.com/obamacare-subsidies.php)
<table>
<thead>
<tr>
<th>Types of Cost Assistance: Health Insurance Financing</th>
<th>Individual Annual Income</th>
<th>Family of Four Annual Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsidies for out-of-pocket costs, if you buy in your state's online marketplace</td>
<td>Up to $28,763</td>
<td>Up to $58,564</td>
</tr>
</tbody>
</table>

Source: obamacarefacts.com/obamacare-subsidies.php
NEGOTIATING TIP #2

APPLICANTS’ COUNSEL:
SHOPPER MUST COMPLETE THE APPLICATION TO SEE ACTUAL COST.
TRAIN STAFF TO HELP THE INJURED WORKER NAVIGATE COVEREDCA.COM

INCOME INFORMATION IS REQUIRED TO DETERMINE SUBSIDY AVAILABILITY
HAVE CLIENT BRING IN COPY OF MOST RECENT TAX RETURN.
HOW CAN I RELY ON THESE NUMBERS? ISN’T IT ALL GOING TO CHANGE?

MEDIATOR CAN HELP

WCMediator.com
Expanded Medi-Cal
Workers Compensation Settlement
Game-Changer
MEDI-CAL MAY BE A SOURCE OF ONGOING MEDICAL CARE WHICH WILL ALLOW YOU TO SETTLE THE CASE
TO RETAIN TRADITIONAL MEDI-CAL, THE INDIVIDUAL MUST MEET STRICT RESOURCE AND INCOME RULES

THIS INCLUDES, FOR AN INDIVIDUAL, NOT MORE THAN $2,000 CASH
BEST WAY TO FUND A SETTLEMENT AND STILL RETAIN MEDI-CAL HAS BEEN THROUGH A SPECIAL NEEDS TRUST
ACA CREATES A SECOND FORM OF MEDI-CAL:
EXPANDED MEDI-CAL

THERE ARE NO RESOURCE LIMITS FOR EXPANDED MEDI-CAL
MODIFIED ADJUSTED GROSS INCOME ("MAGI")
CANNOT EXCEED 138% OF FEDERAL POVERTY LEVEL
FOR SINGLE PERSON, THAT’S CURRENTLY $15,856
FOR A FAMILY OF FOUR: $32,499
OTHER QUALIFIERS

MUST BE AGED 19-64
NOT PREGNANT
NOT INCARCERATED
MEET MEDI-CAL CITIZENSHIP RULES
NOT BE MEDICARE-ELIGIBLE
SHOULD THE INJURED WORKER SKIP THE SPECIAL NEEDS TRUST?

EXPANDED MEDI-CAL COVERAGE IS NARROWER THAN TRADITIONAL MEDI-CAL
NO HOME HEALTH CARE

INJURED WORKER MAY NOT BE ABLE TO MANAGE THE MONEY ON HIS/HER OWN
A MATTRESS IS A LOUSY INVESTMENT
NEGOTIATING TIP #3

TO ADVISE WHETHER TO ACCEPT SETTLEMENT DIRECTLY OR SET UP AN SNT, APPLICANT’S COUNSEL MUST DETERMINE IF INJURED WORKER QUALIFIES FOR MEDI-CAL AND WHICH TYPE
MEDICARE

NOT MANY CHANGES—LOTS OF CONFUSION
MEDIcare

PER ACA, NO MORE DONUT HOLE AFTER 2020

WCMediatort.com
DUAL-ELIGIBLES
aka MEDI-MEDI

ACA CREATED AN
INNOVATION CENTER
TO IMPROVE HEALTH CARE DELIVERY TO DUAL-ELIGIBLES

15 STATES, INCLUDING CALIFORNIA, ARE PART OF A
DEMONSTRATION PROJECT
CAL MEDICONNECT

AN OPTIONAL HMO PROGRAM FOR ENROLLEES IN 8 COUNTIES
ALAMEDA, SAN MATEO, SANTA CLARA, LOS ANGELES, ORANGE,
SAN DIEGO, RIVERSIDE AND SAN BERNARDINO

TO START NO SOONER THAN APRIL 2014
“Medicare and Medicaid were not designed to work together, and their separation leads to significant fragmentation of services. 

***

The proposal emphasizes continuity of care so beneficiaries don’t experience interruptions in their needed services.”

WWW.CALDUALS.ORG

WCMediator.com
HOW DOES THIS HELP?

EASIER ACCESS TO HEALTHCARE MAY ENCOURAGE INJURED WORKERS TO C&R

EASIER SELF-ADMINISTRATION OF HEALTH CARE MAY HELP IN THE DECISION WHETHER TO ESTABLISH AN SNT

BUT FOR NOW THE PROGRAM IS TEMPORARY
CONCLUSIONS
YOU CAN REACH TEDDY SNYDER AT

TSnyder@WCMediator.com

Phone 310/889-8165