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BULLETIN

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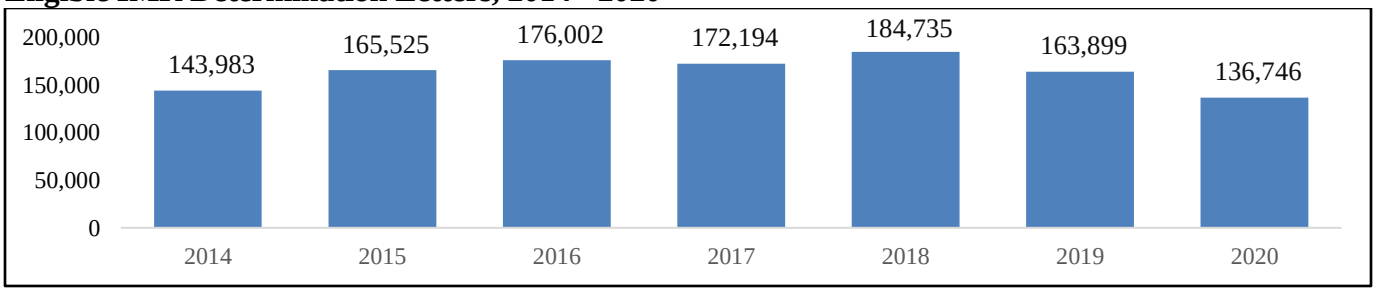
After a rising steadily from 2014 to 2018, the number of independent medical review (IMR) determination letters issued in response to California workers' compensation medical disputes decreased in 2019 and 2020, falling to the lowest level since the IMR process took effect.

The latest CWCI study of IMR activity, based on data from more than 1.1 million IMR determination letters issued from 2014 through 2020 by physician reviewers who conducted IMRs in response to denials or modifications of medical service requests for California injured workers, tracks changes in the volume, timeliness, and regional distribution of IMRs. In addition, the results show changes in the mix and uphold rates of IMRs by medical service category, including the distribution and outcomes of pharmaceutical IMRs by drug category from 2014 through 2020, as well as the percentage of 2020 IMRs associated with the top 10 percent of medical providers who had the highest volume of disputed medical service requests. The study also estimates the percentage of pharmaceutical, physical therapy (PT), acupuncture, chiropractic, durable medical equipment/prosthetics/orthotics/and supplies (DMEPOS), and psych IMRs that were submitted even though the utilization review (UR) physician approved provision of the service on an initial or trial basis but reduced the quantity to comply with the evidence-based medicine guidelines.

For the first six years after IMR took effect, the number of medical disputes adjudicated through the process exceeded what state lawmakers had anticipated, as they had expected the number of disputes would diminish as physicians, attorneys, and claims administrators gained an understanding of what services would or would not meet the required evidence-based standards. The latest analysis shows that the number of IMR determination letters climbed 28.3 percent from 143,983 in 2014 to a record 184,735 letters in 2018, but in 2019 that number declined 11.3 percent to 163,899 letters and in 2020 it declined another 16.6 percent, pushing the annual letter count down to 136,746, for a net decline of 26.0 percent over the past two years.

Eligible IMR Determination Letters, 2014 - 2020



The study notes the decline between 2018 and 2019 followed the adoption of ACOEM's Chronic Pain and Opioid Guidelines into the California workers' compensation Medical Treatment Utilization Schedule (MTUS) in late 2017, and the implementation of the MTUS prescription drug formulary in 2018, after which IMRs involving pharmaceutical disputes fell from 46.4 percent of all IMRs in 2018 to 39.1 percent of the IMRs last year, with the biggest decline involving disputes over opioid requests, which fell from 32.2 percent of the pharmaceutical IMRs to 28.3 percent in 2020. The decline in IMRs in 2020 also was spurred on by the economic shifts brought on by the pandemic, as statewide unemployment suddenly jumped from 5.5 percent to 16.4 percent and millions of Californians began working remotely after the governor issued the stay-at-home order at the end of March, both of which led to fewer work injury claims and reduced demand for medical services.

The impact on IMR volume was immediate, as a comparison of monthly IMR determinations from 2019 and 2020 shows a similar number of IMRs in March of each year, but by April, there were 1,762 fewer IMRs than in April 2019, while the differential was 5,387 fewer IMRs in May; 3,666 fewer IMRs in June; 2,841 fewer IMRs in July; and 3,848 fewer IMRs in August. The regional distribution shows IMR volume was down across all regions of the state, with the biggest decline occurring in Los Angeles County, which had about 9,400 fewer IMR determination letters in 2020 than in 2019. On a percentage basis, the regional declines in IMR volume ranged from 12.3 percent in the Bay Area to 19.8 percent in Los Angeles County.

IMR outcomes have shown only minor fluctuations over time, and that remained true in 2020 as IMR physicians upheld the UR physicians' decisions 89.4 percent of the time, up slightly from the 2019 uphold rate of 88.2 percent. On the flip side, in 11.4 percent of all 2020 IMR decisions the IMR physician overturned the UR physician and determined that the requested service was medically necessary and appropriate. As usual, the uphold rates varied by service category, ranging from 80.7 percent for evaluation and management services, which are primarily requests for office visits and consultations, to 91.3 percent for injections and DMEPOS.

Currently, any UR modification of a service request can be submitted to IMR, and the study notes that in an estimated 11.5 percent of all 2020 IMR decisions the requested service was approved as medically necessary by the UR physician, but modified to comply with the treatment guideline (typically to a lesser quantity). A review of IMRs in six service categories – pharmaceuticals, physical therapy, acupuncture, chiropractic, DMEPOS, and Psych/Mental Health -- revealed that in 9.8 percent of those IMRs the service was approved by UR but the quantity or purchase arrangement was modified, with these types of modifications accounting for 17.8 percent of all pharmaceutical IMRs and 18.9 percent of all physical therapy IMRs. Given the time and expense associated with IMR, this finding suggests one area where public policymakers may want to consider whether it is appropriate for these types of modifications to remain eligible for IMR review.

California law requires that the Independent Medical Review Organization contracted by the state to manage the IMR process (Maximus) issue an IMR determination letter within 30 days of receiving the application and all necessary records, with 15 days allowed for the receipt of necessary records, so Maximus has up to 45 days to issue a determination letter. The timeliness of Maximus' response to IMR applications improved steadily from 2014 through 2019, though after declining for 5 consecutive years, the median response time edged up from 26 days in 2019 to 28 days in 2020, which may be due in part to the pandemic. The study also notes, however, that 25 percent of the IMR applications from 2020 were decided within 25 days, and 75 percent were decided within 32 days, all of which were still well within the statutory timeframes, so the pandemic appears to have done little to impede the timeliness of the IMR process.

As in prior studies, the 2020 results show that a relatively small contingent of physicians who request a high volume of services that go through IMR continue to drive much of the IMR activity, with the top 10 percent (887 physicians) accounting for 82.2 percent of the disputed requests, while the top 1 percent (89 providers) accounted for 39.8 percent. The top 10 individual physicians alone accounting for 10.2% of the disputed requests, and the study found that seven of the top 10 physicians in 2020 were also on the top 10 list for 2019.

The Institute has published the results of its latest analysis of IMR activity in a Research Update Report, "Independent Medical Review Decisions: January 2014 Through December 2020," which is posted in the Research section at www.cwci.org.

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