



JOHNS EASTERN COMPANY, INC.

Claim Adjusters & Third Party Administrators



SCOTT SIGNS BILL TO CRACK DOWN ON PILL MILLS

THE CAPITAL, TALLAHASSEE, June 3, 2011.....Gov. Rick Scott signed a high-profile bill Friday to try to root out Florida’s illicit — and deadly — trade in prescription painkillers.

“I am proud to sign this bill which cracks down on the criminal abuse of prescription drugs,” Scott said in a prepared statement as he visited Fort Lauderdale, Tampa and Orlando for bill-signing ceremonies. “This legislation will save lives in our state, and it marks the beginning of the end of Florida’s infamous role as the nation’s pill mill capital.”

After weeks of sometimes-contentious debate, lawmakers passed the 98-page bill May 6, the final day of the spring legislative session. In part, it would ban most doctors from dispensing two categories of controlled substances in their offices or clinics.

Also, it takes steps such as increasing penalties against doctors involved in wrongdoing and requiring a new permitting process for pharmacies that dispense controlled substances. That permitting process is designed to prevent fly-by-night pharmacies from acting as suppliers.

The bill also keeps in place a plan to use a prescription-drug database to help track dispensing of controlled substances. That issue touched off a brouhaha early in the legislative session, as Scott and some House leaders called for scrapping the database because of privacy concerns.

Attorney General Pam Bondi, who helped broker passage of the bill, issued a statement Friday that alluded to Florida’s national reputation as a magnet for prescription-drug abusers and traffickers. Pain clinics have popped up throughout the state in recent years, drawing drug purchasers from as far away as Kentucky and Ohio.

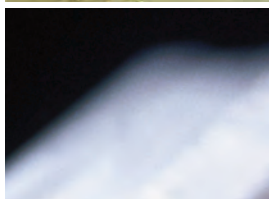
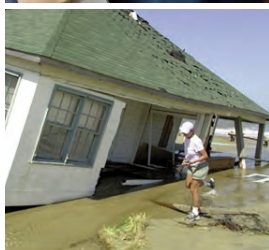
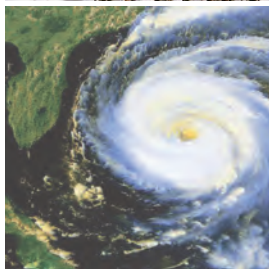
“Not a day goes by that I don’t hear a story of someone who has lost a family member or friend to prescription drug abuse,” Bondi said. “This legislation will make significant strides in ridding Florida of unscrupulous doctors and pill mills, making our state a safer place to live and raise our families.”

Lawmakers also passed wide-ranging bills in 2009 and 2010 to try to shut down shady clinics and reduce abuse of painkillers such as oxycontin. But problems have persisted in many parts of the state — as evidenced by two lawmakers standing up on the House floor this spring to discuss family members who have prescription-drug problems.

While state leaders praised the new bill Friday, Paul Sloan, president of the Florida Society of Pain Management Providers, expressed skepticism.

Sloan said the “most troubling fact” is that the best way to deal with the drug problems is by addressing addiction issues that drive demand. Instead, he said in an e-mail that such laws are an attempt to “arrest our way out of the predicament.”

Source: Jim Saunders - The News Service of Florida



Behind the Scenes with SPNET - Your PT Network

Rising medical costs continue to impact businesses in Florida. In such an environment, it is critical for Third Party Administrators and medical professionals to work closely together in an effort to identify viable solutions for cost management. Johns Eastern Company has a complex strategy to control these rising medical costs. One key strategy for cost control is found in partnering with a specialty rehabilitation network for the provision of Physical and Occupational Therapy services. Select Provider Network (SPNet) is working behind the scenes to manage the quality and cost of Physical and Occupational therapy as a necessary step in total cost control for Workers Compensation.

SPNet contracts with therapy providers with expertise in workers compensation to deliver physical and occupational therapy services that are both medically necessary and clinically appropriate. SPNet's strategy is to monitor the delivery of care from referral through discharge to ensure that network providers utilize those modalities and procedures that can objectively and reliably demonstrate improvement in function. This is accomplished through a proprietary Utilization Management System (UMS). Designed to provide ongoing monitoring and assessment of the medical necessity and appropriateness of rehabilitation services, UMS incorporates evidence based practices and peer review of services throughout the course of care. Results include cost savings and early, safe and productive return to work.

Behind the scenes, SPNet employs a team of Physical and Occupational therapists with clinical expertise that assist in ensuring that therapy providers produce exceptional functional outcomes, high patient satisfaction, and substantial cost savings. SPNet's peer-to-peer utilization management is designed to facilitate early intervention to reduce medical and indemnity costs with improved RTW and productivity.

Overall benefits partnering with SPNet include:

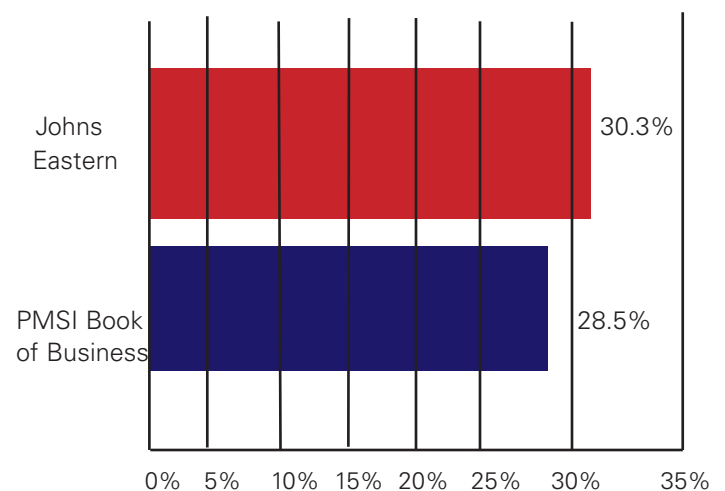
- Reduction in overall costs for PT and OT
- Reduction in total costs associated with inappropriate utilization
- Enhanced predictability for planning and cost projections
- Improved patient satisfaction
- Measurable provider accountability
- Enhanced clinical communication
- Superior clinical outcomes

Contributor: SPNet

PMSI Annual Drug Trends Report

- Average pharmacy spend per injured worker decreased by 2.3% in 2010
- Overall average cost per day of supply fell 2%
- AWP changes represented a 3.5% increase in the average cost per day of supply in 2010—45% less than the increase in 2009
- Mail order cost per day of supply was 19% less than the average cost per day of supply through a retail pharmacy
- New medications released in 2010 only had a small impact on total drug spend

Johns Eastern Company, Inc. Mail Order Penetration Results Ending Q1 2011



Johns Eastern Company, Inc. continues to see increases in mail order penetration. Mail order penetration results in greater savings for our clients.

MEDICARE POINTERS

1) Did you know that if a claim settles for less than \$5,000.00, the RRE/Client can be held responsible for the full amount of the Conditional lien payment, if not paid by the claimant? For example, if you settle a claim for \$3,000.00 and Medicare has paid out \$25,000.00 for the injury, the client could end up paying up to \$25,000.00 (or more) on the conditional lien alone. If placed on notice of a lien by Medicare, the client would have 60 days in which to pay the amount of the lien or interest will begin to accrue on the unpaid portion from the date of notice. If not paid within 60 days, suit for double damages by the Dept of Treasury can take place, even though the claim was settled based on existing State Law which regulates settlements on a comparative negligence basis.

2) Medicare considers whether or not the insurer or self insured took into consideration the future medicals of the claimant. Medicare may refuse to pay those future medicals attributable to the injury which were the subject of the claim. If Medicare does agree to pay the medicals, and it is done on a conditional payment basis we are back at step 1 as noted above.

3) Currently settlements must be electronically reported if they occur on or after 10/01/2011. Do not confuse this with the right of recovery which has existed since 1980. No Fault claims have been reportable since 01/01/2011, dating back to any claim open after 01/01/2010.

4) You must obtain SSN information or HICN information early on, if at all possible. If defense counsel is assigned and you do not have the information you need, have interrogatories cover the Medicare issue and information you need. Full Name, Gender, Date of Birth, SSN or HICN.(see *Seger V. Tank Connection*)

<http://www.settlementlawfirm.com/post-detail.php?id=100>

5) Always utilize language in the release that is unambiguous pertaining to the responsibility concerning Medicare liens both existing and future as being the sole responsibility of the claimant. Johns Eastern has an excellent addendum to the release, for this purpose.

6) The only situation in which Medicare recognizes allocations of liability payments to non-medical losses is when payment is based on a court order on the merits of the case. If the court or other adjudicator of the merits specifically designate amounts that are for payment of pain and suffering or other amounts not related to medical services, Medicare will accept the Court's designation. Medicare does not seek recovery from portions of court awards that are designated as payment for losses other than medical services.

From the MSP Recovery Manual 50.4.4.

Contributor: James Boelter, Manager Johns Eastern Company, Inc.

DSF ISSUES MEMORANDUM CORRECTING SDTF ASSESSMENTS

Recently, the Florida Department of Financial Services, Division of Workers Compensation, Assessment Unit, issued a memorandum correcting the assessment rate of the Special Disability Trust Fund. Below, the memorandum is quoted in full:

Effective July 1, 2010, the Special Disability Trust Fund (SDTF) assessment rate was reduced from the statutorily capped rate of 4.51% to 1.46% for self-insurers with anniversary rating dates on or after July 1, 2010. The Division mistakenly issued both the assessment computation spreadsheet and the associated invoices which contained the incorrect prior assessment rate to those individual self-insurers with anniversary dates on or after July 1, 2010.

On February 4, 2011, those self-insurers affected should have received a revised SDTF assessment computation spreadsheet and revised quarterly Self-Insurer Invoices for any quarters that have not already been paid.

If you have already submitted one or more quarterly payments, they will apply the overpayments to the remaining invoices. If you have any questions regarding your assessments, please contact your Account Manager, Kerry Thayer at (877) 879-9539 or by email - kthayer@johnseastern.com.

CASE LAW UPDATE

NEW FLORIDA LAW

A Florida law intended to reform pain management clinics and take aim at disreputable "pill mills" took effect October 1, 2010. The law has succeeded in driving some pill mills out of business. Police, state officials, patients and pain clinic operators agree that the law has made a dent in Florida's heavy trade in prescription narcotic drugs.



The new law requires pain clinics to be owned by doctors, unless the facility is registered with the Agency for Health Care Administration. It limits anyone paying cash for prescription narcotics to a 72-hour supply. The new law also bans advertisements for specific treatments like the Opiate Oxycodone and requires specific training for doctors to practice pain management. The law requires doctors to examine the patient every time they write a prescription for narcotic drugs, and the prescription cannot cover a dose longer than 30 days.

The State Department of Health started pain clinic inspections in November 2010. Dozens of clinics owned by investors have closed due to the requirements of the new law. Failing to register with the State as a pain clinic becomes a felony under the new law, and starting in 2012, doctors entering a pain management practice will have to be qualified in the specialty by board certification or completing a fellowship in pain management or a related field. Doctors will also have to keep careful records documenting that patients were given physical exams the same day prescriptions are written for controlled substances like Oxycodone and Xanax. Depending on the violation, penalties can range from professional discipline and fines to misdemeanor or felony criminal charges.

Written by Linda Trefethen, QA Supervisor
Johns Eastern Company, Inc.

FLORIDA BAR STAFF OPINION

When negotiating a claim in which there is a Medicare Beneficiary ready to settle it is likely that the Defense counsel will want assurance from the Plaintiff's counsel that his or her client will be held harmless in the event of a future claim by Medicare under the MSP statute. The Defense counsel will ask the Plaintiff's counsel if he or she is willing to personally sign a release containing a hold harmless and indemnification agreement as it relates to the Medicare Secondary Payer Statute. Is this ethical? As it turns out, under the rules of the Bar Association two problems were identified. The first was that there existed a potential conflict of interest between the plaintiff and their counsel. Such a conflict is found by the Florida Bar, to exist under the following rules:

4-1.7(a)(2) Representing Adverse Interests. A lawyer shall not represent the client if the representation of that client will be directly adverse to the interests of another client, unless:

- 1) The lawyer reasonably believes the representation will not adversely affect the lawyer's responsibilities to and relationship with the other client; and
- 2) Each client consults after consultation.

The Florida Bar reasoned that Rule 4-1.7(a)(2) would be violated by such an indemnification agreement because "it creates a substantial risk that the representation of the client would be materially limited by the lawyer's personal interest in not having to pay the client's debts."

The second issue was the financial assistance, which does not fit the exception spelled out by the rule and found below.

4-1.8(e) Financial Assistance to Client. A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- 1) A lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and
- 2) A lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

Clearly the financial assistance does not fit the exception. Plaintiff's counsel may not sign such an agreement nor should defense counsel induce Plaintiff's counsel to do so.

Of note, the rule would be the same regarding any third party personal injury claim in that it would be an ethics violation for plaintiff's attorney to personally sign a release with a hold harmless and indemnification agreement in favor of the opposing party to settle any future medical liens. Opinions from Ohio, North Carolina, Arizona, Illinois, Indiana, Missouri, South Carolina, Tennessee, Wisconsin and New York can be found pertaining to personal injury claims without the Medicare caveat. You can view the full ruling at this website:

<http://www.settlementlawfirm.com/files/Florida%20Bar%20Staff%20Opinion.pdf>

Contributor: Jim Boelter

JE CLIENTS IN THE NEWS

BROWARD COUNTY SCHOOL INVOLVED IN THE SHUTTLE ENDEAVOR LAUNCH

Crystal Lakes Middle School is one of two schools in Florida that will have student-made experiments fly aboard the STS-134 Space Shuttle Endeavor.

One experiment will fly in low Earth orbit for 14 days. There were a total of 447 proposals submitted from across the US .



BAPTIST HEALTH SOUTH FLORIDA

According to *Florida Employment Law*, December 2010 www.theHRSSpecialist.com/FL; Coral Gables-based Baptist Health South Florida ranked 32nd in the country according to Fortune Magazine's 100 Best Companies to Work For list.



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SPEED AND ACCURACY

JOHNS EASTERN COMPANY
Experience. Integrity. Results

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MSP Recovery Manual

CEU SEMINARS

7/18 11:30AM

“Rights & Duties under Section 440.13”
2 hrs - Law

8/25 11:30 AM - 2:00PM

“Understanding Adjuster Ethics”
1 hr

“Credibility Counts:
Finding the Right Lie in WC”
1 hr

Comfort Suites Hotel
8305 Tourist Center Dr
University Park, FL 34201

UPCOMING CONFERENCES

Florida Educational Risk Management Association - (FERMA)

7/18 - 7/22 Lido Beach Resort, Longboat Key, FL www.myferma.org

Florida Association of Self Insurance - (FASI)

7/24 - 7/22 Ritz Carlton, Naples, FL www.ritzcarlton.com/Naples

Risk and Insurance Management Society - (RIMS)

8/1 - 8/5 Ritz Carlton, Naples, FL www.rtizcarlton.com/Naples

Florida Workers Compensation - Conference

8/21 - 8/24 World Marriott, Orlando, FL www.marriottworldcenter.com

Georgia Workers Compensation - Conference

8/28 - 8/31 Renaissance Waverly, Atlanta, GA

www.marriott.com/hotles/travel/atlr-renaissance-waverly-hotel