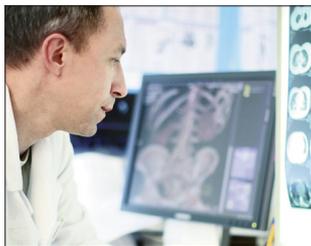




# JOHNS EASTERN

Claim Adjusters & Third Party Administrators



## CEU SEMINARS

**6/2/16:**  
**“Mild Traumatic Brain Injury/Post Concussion Syndrome” and “Residual Behaviors Influencing TBI Treatment and Recovery”** by Neuro Restorative Florida and Access On Time. 11:30 AM – 2:00 PM, Holiday Inn Lakewood Ranch, 6231 Lake Osprey Drive.

**7/12/16:**  
**“2014, 2015 and 2016 Case Law Update”** by Russell Young with Eraclides, Gelman Hall, Indek, Goodman & Waters, PA. 2:00 PM – 4:00 PM, Holiday Inn Lakewood Ranch.

**For more details, contact:**  
 Rose Rome at [rrome@johnseastern.com](mailto:rrome@johnseastern.com)



## ATTORNEY FEE ENTITLEMENT CHANGES

### Florida Supreme Court Issues New Opinion on Attorney Fees

In a five to two decision on April 28, 2016, the Supreme Court of Florida issued an opinion in *Castellano v. Next Door Company*. The decision held that the statutory fee schedule found in section 440.34, which creates an irrebuttable presumption that precludes any consideration of whether the fee award is reasonable, is unconstitutional under the Florida and United States Constitutions as a violation of due process. The opinion includes two dissents by Justices Polston and Canady.

Essentially, the decision takes us back to how fees were handled prior to the 2009 enactment of a mandatory fee schedule following *Murray v. Mariner Health*, 994 So.2d 1051 (Fla. 2008). In essence, the guideline fee will be the starting point and the Judge of Compensation Claims (JCC) will be allowed to

depart from the guideline if the claimant can demonstrate based upon the *Lee Engineering* factors that the statutory fee is unreasonable.

The emphasis in the handling of the claims should be on preventing attorneys’ fee entitlement.



Keep in mind, the employer/ carrier is only responsible for payment of a claimant’s attorney’s fees in the following situations:

- (1) Successful prosecution of a claim for medical benefits only;
- (2) Where the employer/ carrier files a response to petition denying benefits;
- (3) Where an employer/ carrier denies that an

- accident occurred for which compensation benefits are payable and the claimant prevails on the issue of compensability; or
- (4) In cases where claimant prevails in proceedings filed under 440.24 (Enforcement of Compensation Orders) or 440.28 (Modification of Orders).

### Timely Provision of Benefits

For accidents occurring on or after July 1, 2002, section 440.34(3) provides that regardless of the date benefits were initially requested, attorney fees do not attach until 30 days after the date the carrier or employer, if self-insured, receives the petition. Thus, if benefits are going to be provided you will want to make certain that is done within 30 days of receipt of the petition.

Keep in mind that different timeframes apply for dates of accident before July 1, 2002.

*Continued on page 5*

**Page 2**  
 Avoiding Physician Dispensing Concerns

**Page 4**  
 What Do ICD-10 Codes Mean to You?

**Page 5**  
 New Anti-Bullying Policy Issued in FL

# ALLEVIATING PHYSICIAN DISPENSING CONCERNS

Physician dispensing is a trend that continues to impact workers' compensation claims across the country. The practice contributes to higher claim costs and poses potential patient risks. Physician-dispensed medications account for more than 50% of workers' compensation pharmacy costs in some states. In Florida, 45% of prescriptions are dispensed by physicians, translating into more than 60% of total prescription costs!<sup>1</sup>

Johns Eastern incorporates a sophisticated pharmacy benefit management (PBM) solution provided by Healthsystems which ensures timely access to prescribed medications through a nationwide pharmacy network.

The pharmacy program deploys a number of electronic tools that ensure patient safety and help to manage claim costs. Physician dispensing bypasses these mechanisms, leading to patient safety and cost concerns.

## Patient Safety Concerns

Physician dispensing bypasses the drug utilization review process, which is used to evaluate a patient's drug regimen for safety concerns such as:

- Drug-drug interactions
- Drug-allergy interactions
- Duplication of therapy
- Inappropriate dosing ranges

Circumventing the retail pharmacy network prevents the patient's complete medication regimen from undergoing the typical checks and balances that identify if the patient is at risk for drug interactions, dangerous drug combinations, or therapeutic duplication.

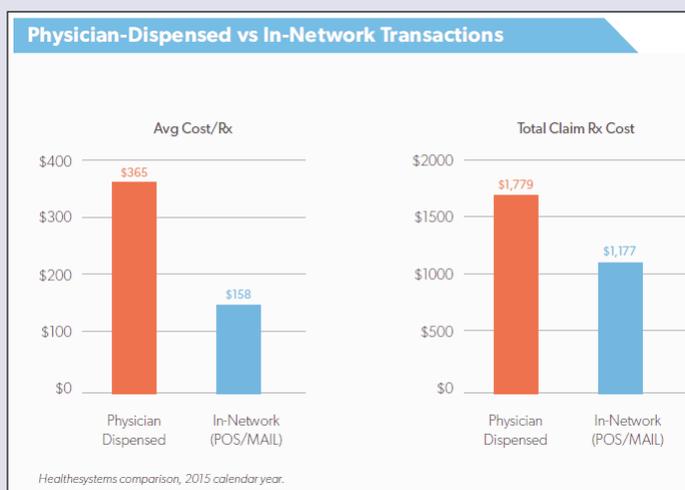
Increased risk is often associated with a delay in recovery. When compared to claims that fill prescriptions in the Healthsystems' pharmacy network, physician dispensing results in extended claim duration, by up to two months.

## Cost Concerns

There is a significant gap between physician- and pharmacy-dispensed reimbursement rates. Prices paid for physician-dispensed drugs are often 60-300% higher than the same drugs dispensed by a retail pharmacy.<sup>1</sup>

When compared to claims that fill prescriptions in the Healthsystems' pharmacy network, physician dispensing results in:

- Up to 2-3X the cost per prescription
- Up to double the total claim prescription cost



## How Employers Can Help

Discuss physician dispensing with the injured worker. Advise them not to accept prepackaged medications at physician visits. Instead, they should request a hard copy prescription to take to their choice of network pharmacies.

## What About New Injuries?

Please utilize the First Fill Form provided by Johns

Eastern. If you need to obtain copies of the First Fill Form, please reach out to Johns Eastern.

You can also call the 24-hour Healthsystems Customer Service Center at 1-800-758-5779 to set up your employee's medication profile. If your employee has just been injured and Healthsystems has not received information from Johns Eastern, the Healthsystems Customer Service Center can set up a Temporary Member ID to allow the injured worker's first prescriptions to be processed.

Provide your employee with the Healthsystems information. He or she should take the information to the pharmacy, along with the prescription(s) provided by the physician.

<sup>1</sup> Wang D. Physician dispensing in workers' compensation. Cambridge, MA: Workers Compensation Research Institute (WCRI); July 2012.

**Vendor Partner:**  
Clinical Services Team,  
Healthsystems

**Healthsystems**

# SIU SUCCESSES WITH COMMAND INVESTIGATIONS

Johns Eastern, along with our Special Investigative Unit (SIU) and investigative partner, Command Investigations, achieved a number of successful fraud investigations in 2014-2015.

As Johns Eastern's SIU Department, Command Investigations works very closely with our staff to first identify suspect claims and then investigate these potentially fraudulent activities. If a determination of fraud is made based upon the supporting evidence, a referral is made to the Florida Division of Insurance Fraud (DIF) as required by statute. This environment continues to positively impact and reinforce the Johns Eastern claims culture of fraud awareness.

During Florida's 2014-2015 reporting year, we are proud to report that our SIU Department has achieved notable

results, including:

- 32 State Fraud Submissions
- 11 Open & Current State Criminal Investigations
- 2 Arrests
- 16 Open Tip Submissions



A recent SIU conviction was handed down for insurance fraud which resulted in the claimant being ordered to pay enforceable restitution of \$2,500 and serving 12 months of probation.

Command's comprehensive SIU program incorporates on-site personnel, in-house training seminars and dedicated relationships with state criminal investigators and prosecutors.

**Vendor Partner:**  
Command Investigations, LLC



## 5 TIPS TO MAINTAIN YOUR EYE HEALTH

May was Healthy Vision Month and to celebrate it, the U.S. Centers for Disease Control and Prevention partnered with the National Eye Institute to educate the public about vision loss prevention and eye health promotion.

### What Can You Do to Protect Your Eyes?

1. *Get a comprehensive eye exam*  
An eye exam where your eyes are dilated is often the only way to catch eye diseases early since there are often no warning signs.
2. *Live a healthy lifestyle*  
Maintaining a healthy weight and managing your chronic conditions, including diabetes and hypertension, can help protect your eyes from inflammation of the optic nerve that can lead to glaucoma and blindness.
3. *Know your family history*  
Eye conditions can be hereditary. Knowing the eye



health of parents, grandparents, aunts and uncles can help with your own eye health.

### 4. Use protective eyewear

Every day nearly 2,000 workers have job-related eye injuries that require medical treatment. Wearing safety glasses, goggles and safety shields can help prevent on the job eye injuries.

### 5. Wear sunglasses

Ultraviolet rays from the sun cause an estimated 20% of cataracts. Most sunglasses will block UVA and UVB rays and will help keep your vision sharp and your eyes healthy.

Because many common eye diseases have no apparent symptoms, early detection and timely treatment are important, as is the use of proper eye safety practices. More information about vision and eye health is available on the CDC's website at [www.cdc.gov/visionhealth](http://www.cdc.gov/visionhealth).

U.S. Centers for Disease Control and Prevention

# ICD-10: NEW CODES AND THE NEW STANDARD



**John Powers**  
TPA Liability  
Quality Assurance  
Manager

As of October 1, 2015, all diagnoses for new injuries should be recorded using the ICD-10 system. This new way of tracking injuries gives the medical world the ability to add new codes as they become relevant. Indeed, there are now over 68,000 approved codes!

ICD-10 coding is now comprised of seven digits. The first digit will always be an alphabetical character and represents the type of injury. The second, a numerical character, indicates the body system in question. The third character refers to the specific body part or injury. The remaining four numbers allow medical staff to reference the specific location and circumstances of the injured body part.



The aim of the code change is to modernize the system and to bring greater consistency and specificity to the code set. The new codes are intended to allow for a better combination of diagnoses and symptoms, so that fewer codes need to be reported to fully describe a condition.

Our Mandatory Insurer Reporting (MIR) will be used by the Centers for Medicare and Medicaid Services to allocate specific conditional payments to a subject injury or claim. Keep in mind, payment of a medical bill does not automatically translate to acceptance of an injury code.

Some codes can be ruled out by claim investigation or known pre-existing or concurrent conditions.

If you have questions about this new reporting, please reach out to your Johns Eastern representative.

# RECORD-BREAKING DONATIONS FOR MS!



**Rose Rome**  
Executive Assistant

Since 2013, Johns Eastern has supported the fundraising efforts of the National Multiple Sclerosis Society and this year continued that tradition. We began 2016 by taking part in Walk MS in Lakewood Ranch, FL on March 5th. The slogan for this year's walk was ***We're Stronger Together*** and this served to fuel the spirit of Team JE which was made up of Johns Eastern employees, families and friends. The awareness for MS took on a personal meaning as employees posted the names of loved ones and friends whose lives have been affected by this debilitating disease.

In addition to taking part in Walk MS, Johns Eastern held a Management Slime for MS. Managers and supervisors from the Lakewood Ranch and Sarasota offices volunteered to be slimed. Staff placed "bids" to determine who would be our lucky "slimees." Executive

Vice President Beverly Adkins, QA Medical Management Supervisor Linda Trefethen, WC Claims Supervisor Tabetha Pittman and Liability Supervisor Corey Holder were the lucky winners! Employees enjoyed the event, while raising over \$1,000 for MS!

With the generosity of our employees, we raised a total of \$6,314 for MS. In doing so we surpassed our goal of \$4,500 and ranked in second place of all fundraising groups in the Sarasota area. Thank you to everyone who supported our efforts for MS!



Beverly Adkins

Linda Trefethen

Tabetha Pittman

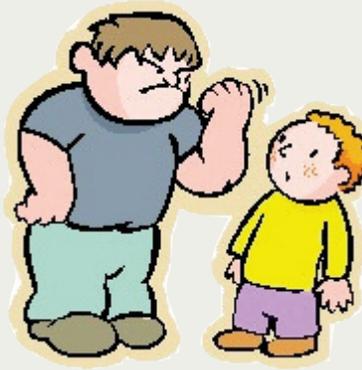
Corey Holder

# FL DOE ISSUES REVISED ANTI-BULLYING POLICY

Earlier this year, the Florida House of Representatives passed HB 229 which revised Florida's school anti-bullying statute (F.S. 1006.147). There is now a new requirement that school boards must adopt and review their anti-bullying policies every three years.

The Florida Department of Education (FL DOE) has issued a memorandum advising school boards that FL DOE has published a new Model Anti Bullying and Harassment Policy which takes into account the new statutory requirements. Additionally, although not required by HB 229, FL DOE is requiring school boards to submit their

## EDUCATION UPDATE



revised anti-bullying policies to FL DOE on or before September 30, 2016.

There are three types of bullying that can be classified as physical, social or verbal. Bullying can occur anywhere and to any student. Research shows that students who are bullied are more likely to struggle in school and skip class.

In the last year, new data shows that school-based bullying rates have declined. This is credited, in part, with efforts undertaken at the federal, state and local levels.

Sniffen & Spellman, P.A.

## Attorney Fees cont'd

For dates of accident October 1, 1989 through, and including, December 31, 1993, the 21-day rule applies. Dates of accident January 1, 1994 through, and including, June 30, 2002 are governed by the 14-day rule, however, certain exceptions can apply in medical only claims.

The decision will have an impact on how you handle petitions requesting relatively nominal benefits. Prior to the decision, in a debatable case involving, for example, four weeks of Temporary Total Disability (TTD) benefits, one might have chosen to deny those benefits knowing that the motivation for a claimant's attorney to file a petition was low and even if a petition was filed, the risk for attorney fee exposure was nominal. That has now

changed. More of a cost-benefit analysis should be utilized with these types of claims as the attorney fee exposure is now substantially higher.

It remains to be seen what the Florida legislature may do in response to the decision. Recent discussions indicate there will not be a special session to address this issue, but it will almost certainly be before the legislature's next session, as the National Council on Compensation Insurance (NCCI) issued a statement in April characterizing the impact on the Florida Workers' Compensation System as "significant." There are plans for NCCI to submit an off-cycle rate filing next month. We will of course keep you updated as to the status of matters.

Karen J. Cullen, Esq.  
Broussard & Cullen, P.A.

## CONFERENCE CONNECTION

**Public Risk Management Association (PRIMA)  
2016 Annual Conference**  
June 5-8, 2016  
Atlanta, GA  
Visit us at: Exhibit Hall Booth #243

**Florida Education Risk Management  
Association (FERMA)  
2016 Summer Conference**  
July 12-15, 2016  
Sarasota, FL



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### JOHNS EASTERN COMPANY Integrity. Experience. Results.

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and Prevention

## READY FOR HURRICANE SEASON?



Hurricane season officially begins on June 1, 2016 and this year is predicted to be the most active since 2012.

It is always best to plan for a disaster before it happens and paying attention to your action plans can help to minimize the hurricane related issues your organization may face in the future.

Is your organization prepared? Check out the Johns Eastern blog at <http://johnseasternblog.us> for some simple steps to ensure your organization is prepared for a potential future disaster.

## IN THE SPOTLIGHT



Meet Jessica Rinehart, Johns Eastern's Workers' Compensation Assistant Claims Manager! Ms. Rinehart began her career in workers' compensation with Johns Eastern in 2006. She was promoted to Claims Supervisor in 2013 and to Assistant Claims Manager in 2015.

As Assistant Claims Manager, Jessica has a variety of responsibilities including: ensuring appropriate handling of claims through daily interaction with adjusting staff, assisting in training classes, monitoring excess reports, assisting with new hires and attending client file reviews. Jessica always approaches these tasks with the most positive attitude. Customer service is of the utmost importance to her and this comes through with any interaction she has with our staff

and clients.

Jessica grew up and attended high school in Manatee County. She also attended State College of Florida in Bradenton. She is married and has two very active young sons, Parker and Chase...with a recent addition of "Penny" the puppy.