

With evidence-based medicine, government looks over doctor's chart
By Tim Esper

LANSING – For workers in Michigan, it's feeling more and more like death by a thousand cuts.

The latest slash is coming from the state Workers Compensation Agency, in the form of "evidence-based medicine" – EBM. The agency's director, acting as the Snyder Administration's point man on EBM, has circulated proposed guidelines and has made it clear he intends to implement them in the near future.

This will be accomplished with limited public scrutiny, by administrative rules, without legislative consideration. The EBM guidelines will give veto power to employers and insurance carriers over injured workers' statutory right to seek medical treatment with the providers of their choice. Worse, it will force medical decisions into an "evidence-based" straightjacket, severely limiting treatment options.

While Republicans decry "Obamacare" as big government intervention into health care, Snydercare imposes a harsh managed care system on injured workers with mandatory rules on the reasonableness, necessity, extent and scope of medical treatment. The plan will scrap the current straightforward statutory requirement that employers must furnish reasonable and necessary medical care for injured workers with the physicians of the workers' choice. Snydercare will require pre-authorization from the employer or carrier for virtually all medical treatment for a work injury and will limit treatment options to those in their prescribed guidebook.

With the ink barely dry on state Republicans' rewrite of Michigan's workers' comp law, Snydercare will further impair injured workers' ability to obtain the medical care they need. The new comp law enacted in December extended the period of company-directed medical care from 10 up to 28 days. These new EBM rules will give workers' comp carriers permanent control over injured workers' medical care. Whatever happened to the Republican ideology of limited government and minimal regulation?

Of course, the Snyder administration won't impose Snydercare on themselves. They will keep their first-rate Blue Cross coverage with freedom of physician choice, low co-pays and deductibles, and no such limitations on the extent and scope of *their* treatment.

On its face, EBM may sound like a sensible idea to improve and evaluate patient care. EBM is supposed to combine the best research evidence with the patient's values to make decisions about medical care. By looking at all available medical studies and literature, doctors should be able to better diagnose illnesses, to choose the best testing plan, and to select the best treatments.

Snydercare, on the other hand, uses EBM as a Trojan horse to impose a harsh new system that gives comp carriers ultimate control of all aspects of injured workers' medical care. The best judgment of treating physicians will be superseded by an agency-dictated guidebook on permissible types and amount of treatment. Doctors who want to provide proper treatment outside the Agency's guidelines must provide clear and convincing evidence citing other nationally recognized EBM treatment guidelines supporting their treatment decisions. This will drive most doctors away from treating any injured worker, leaving those workers at the mercy of industrial clinics and carrier approved providers.

Workers Compensation Agency Director Kevin Elsenheimer's authority is limited to making rules that are not inconsistent with the Workers Compensation Act for carrying out the provisions of the Act. Nothing in the Act contemplates such severe limitations on injured workers' medical treatment. Depending on the final rules adopted by the Workers Compensation Agency, a legal challenge is being considered by attorneys representing injured workers. For now, injured workers should alert their doctors to this situation and get them to speak out in opposition to these devastating rules before it's too late.

(Tim Esper is a Detroit-based workers compensation attorney).