

MANAGING YOUR INJURY TO INDEPENDENCE

Thursday, September 13, 2012 | Delta Chelsea

Back to School

The Anticipated Changes to the Definition of “Catastrophic Impairment” and its Expected Impact

Presented by:

DARCY MERKUR

Thomson, Rogers

416-868-3176

dmerkur@thomsonrogers.com



Introduction and Overview

- Changes to the important “catastrophic impairment” definition are imminent
- Changes will lead to **uncertainty and delay**
- This presentation will:
 - Review all of the recent developments
 - Discuss the anticipated CAT changes and the concerns
 - Provide an update on where we are heading...



Review of Recent Developments

- Background:
 - FSCO's Five Year Review
 - CAT Expert Panel:
 - Phase I & Phase II Reports re CAT changes and CAT assessors
 - Concerns Raised by Stakeholders
- Recent Developments:
 - Standing Committee Hearing & Anti-Fraud Task Force
 - **Superintendent's Report (see Tab A of paper)**



Anticipated CAT Changes and the Concerns

- Review of the new tests/thresholds (see Tab B of paper):
 - ASIA test for spinal cord injuries
 - Spinal Cord Independence Measures for lower limb amputations
 - GOS-E for brain injuries in adults (no more GCS!)
 - WPI test (but can't combine physical & psychological impairments)
 - Children and KOSCHI (automatic CAT designation)
 - DSM IV & GAF (no more marked/extreme impairment)
 - Interim Benefits (of up to \$50,000 extra in certain circumstances)
- Review CAT Assessor Qualifications (see Tab C of paper)

The ASIA Test

- Applies the American Spinal Injury Association Standards:
 - ‘permanent’ ASIA Grades A/B/C = CAT
 - ‘permanent’ ASIA Grade D = CAT only if:
 - permanent inability to walk independently—i.e. a score of 0-5 on the Spinal Cord Independent Measure item 12 (indoor mobility, ability to walk < 10 m), or
 - urological complications (as defined)
- Concerns: **Uncertainty, Delay and Thresholds**
 - The word “permanent” and its interpretation
 - Threshold too high (i.e. someone having major mobility problems but capable of some indoor structured walking may not qualify)



Severe Impairment of Ambulatory Mobility

- CAT if:
 - Trans-tibial or higher amputation of one limb, or
 - Severe and permanent alteration of prior structure and function involving one/two limbs resulting in permanent inability to walk independently (i.e. requiring at least bilateral ambulatory assistive devices with a score of 0-5 on the Spinal Cord Independent Measure item 12-indoor mobility, ability to walk < 10 m)
- Concerns: **Uncertainty, Delay and Thresholds**
 - Threshold too high (i.e. someone having major mobility problems but capable of some indoor structured walking may not qualify)



GOS-E (Extended Glasgow Outcome Scale)

- CAT if:
 - Vegetative after 1 month
 - Severe Disability Upper or Severe Disability Lower after 6 months
 - Moderate Disability Lower after one year (due to brain impairment)
- Concerns: **Uncertainty, Delay and Thresholds**
 - No more simple and quick GCS test
 - Unable to access tests for months
 - Disagreements over levels of function



WPI Test (Whole Person Impairment)

- CAT if (still AMA Guide 4th edition):
 - 55% impairment rating
 - combining physical with psychological impairments forbidden
- Concerns: **Uncertainty, Delay and Thresholds**
 - Unfair and arguably illegal to prevent combination
 - Court challenges will follow and will take years
 - Delay and uncertainty in interim



Psychiatric Impairments

- CAT if (no longer references marked/extreme disorder):
 - meet certain DSM IV criteria (major depressive disorder, PTSD, psychotic disorder), and
 - GAF (Global Assessment of Functioning) score of 40 or less
- Concerns: **Uncertainty, Delay and Thresholds**
 - Thresholds too high (i.e. GAF score of 40 or less)
 - Interpretation issues re test and thresholds



Children (under 18) and KOSCHI

- CAT if:
 - Automatic CAT designation if child is in brain injury rehabilitation program and/or if at Level 1 trauma center with positive CT/MRI scan findings, or
 - KOSCHI test:
 - Vegetative after 1 month
 - Severe level of function after 6 months
 - Seriously altered level of function after 9 months
- Concerns: **Uncertainty, Delay and Thresholds**
 - Interpretation issues re test and thresholds



Interim Benefits

- Ability to access an extra \$50,000 in benefits if:
 - Relying on GOS-E test or WPI test
 - Not an in-patient at a rehabilitation hospital
 - Application part of properly submitted CAT application, and
 - Additional treatment managed by primary treating physician
- Concerns: **Uncertainty, Delay and Thresholds**
 - Reliance on primary treating physician
 - Still need insurer to approve the treatment
 - Not enough \$ to deal with major needs like housing



CAT Assessors

- Single Evaluator (except teams when WPI test involved):
 - Doctor (or doctorate level neuropsychologist) with 5 years of licensing/registration in Canada
 - Must be trained in the measurement tools used
 - No university-based training required (but recommended)
 - All evaluators to be trained in measurement tools within 1 year
- Concerns:
 - Process of choosing assessors unknown
 - Limited fees for assessments could reduce interest by most qualified



Where we are Heading...

- Changes to the CAT definition ARE coming
- Draft regulation likely to be announced *soon*
- Final wording of tests is crucial
- Prediction: to be implemented Sept 1, 2013
- Heading for uncertainty and confusion



Conclusion

- Still a bit of time to influence Government
 - Paramount importance of ongoing rehabilitation
 - Must work together to find innovative solutions
- *Check www.thomsonrogers.com for updates*



Back to School



THANK YOU

DARCY MERKUR

Thomson, Rogers

416-868-3176

dmerkur@thomsonrogers.com