Best Practices in the Utilization of Case Management: Being Ethical and Effective

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Learning Objectives

1. Define the role of the case manager in terms of health care literacy and navigating the health care system.

2. Identify the ethical principles from the Commission on Certified Case Managers.

3. Identify the rules that govern the legal parameters of case management.
Health Literacy - Definition

“The degree to which individuals can obtain, process, and understand health information in order to make appropriate health decisions”

Meaning –

You understand what you are supposed to do

(Ratzan & Parker, 2000, p. vi)
National Assessment for Adult Literacy

- Survey of 90,000 adults
- Health literacy questions

(Kutner, Greenberg, Jin, & Paulsen, 2006)
Statistics from the NAAL

12% Proficient
Statistics from the NAAL

53% Intermediate
Statistics from the NAAL

22% Basic
Statistics from the NAAL

14% Below Basic
You Can’t Tell by Looking – Red Flags

- Don’t admit difficulty reading
- Pretend to read information
- Forgot glasses
- Will read information at home
More Red Flags

- Frequently miss appointments
- Don’t adhere to treatment
- Incomplete forms
Consequences

Difficulty Navigating Care and Health Care System

Higher Utilization
- Emergency Visits
- Unnecessary office visits
- Hospitalizations/re-admissions

More Chronic Conditions (complex cases)

Difficulty Applying Information

Higher Mortality (Death)
Benefits of Case Management

- Coordinate between medical provider and injured worker
- Coordinate safe return to work
- Assist in providing timely medical treatment
- Health information education
- Assist injured working in establishing and meeting goals
Case Manager Advocacy

CMSA Definition

The act of recommending or pleading the cause of another, to speak or write in favor of.
Advocacy Examples

- Physician, injured worker and employer education
- Safe return to work and its success
- Access to care/panel providers
Accepted throughout the industry, Case Managers should function under guidelines of CMSA for Ethics

“The practice of Case Management is a professional and collaborative process that assesses, plans, implements, coordinates, monitors and evaluates the options and services required to meet an individual’s health needs.”

“It uses communication and available resources to promote health, quality, and cost-effective outcomes in support of the Triple Aim of improving the experience of care, improving the health of the population, and reducing per capita costs of health care”
## Principles of the Code of Professional Conduct for Case Managers

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<thead>
<tr>
<th>PRINCIPLE</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Case Managers will place the public interest above their own at all times.</td>
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<td>2</td>
<td>Case Managers will respect the rights and inherent dignity of all of their clients.</td>
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<td>3</td>
<td>Case Managers will always maintain objectivity in their relationships with clients.</td>
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<td>4</td>
<td>Case Managers will act with integrity and fidelity with clients and others.</td>
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<td>5</td>
<td>Case Managers will maintain their competency at a level that ensures their clients will receive the highest quality of service.</td>
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<td>6</td>
<td>Case Managers will honor the integrity of the CCM designation and adhere to the requirements for its use.</td>
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<td>7</td>
<td>Case Managers will obey all laws and regulations.</td>
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<td>8</td>
<td>Case Managers will help maintain the integrity of the Code, by responding to requests for public comments to review and revise the code, thus helping ensure its consistency with current practice.</td>
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**CASE MANAGEMENT DEFINED:** The practice of case management is a professional and collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet an individual’s health needs. It uses communication and available resources to promote health, quality, and cost-effective outcomes in support of the “Triple Aim,” of improving the experience of care, improving the health of populations, and reducing per capita costs of health care.
Underlying Values of Ethics

- Improving client health and wellness through advocacy
- Recognition of the dignity, worth and rights of all people.
- Commitment to quality outcomes for clients
- Appropriate use of resources
- Engage injured workers in their care and be supportive
- Belief in the underlying premise that when the individual(s) reaches the optimum level of wellness and functional capability, everyone benefits
- Do no harm
CM working with catastrophically injured worker conveys to adjuster claimant’s statement that he believes that he may be charged criminally in the motor vehicle accident that caused the injury.

The CM in turn calls the adjuster, who sets in motion an attempt to set aside its liability.
CM working with injured worker accepts invitation to attend child’s first communion and family social gathering.

Litigation thereafter commences, causing claimant’s distress (she felt betrayed) and permanent estrangement.

Note – in this fact scenario, the agent was not a CM but instead a vocational placement agent.
CM, formally employed by Liberty Mutual, who “took an active role in managing the treatment of the claimant, utilizing her nursing skills, taking an active role in the managing of the treatment,” alleged to have been negligent in not informing him of his true diagnosis, thereby exacerbating his condition.

South Carolina case: dismissed based on exclusive remedy.
Ethical Dilemma #4

CM, employee of “Amerisys”: assigned to injured worker who was “frustrated with the handling of his claims”; he indicated to her that he “might be destructive,” explaining, “I know how to make bombs and silencers.”

CM was alleged, along with carrier, to have defamed him, and to have falsely accused him of a crime, and to have committed IIED, after they called the police.

Florida case: dismissed under exclusive remedy; no IIED claim made out.
CM who allegedly told claimant “I work with a lot of your company’s people and if you don’t get back to work in the next few weeks you could be fired .... [also] It doesn’t matter how many times you ask for chiropractic care, you are not going to get it.

That is just the way the system is and you need to get back to work, and if you don’t, you will get fired,” sued for IIED after claimant was, in fact, fired.

(California case: allowed to proceed).
Standards of Practice for Case Management, CMSA.

www.cmsa.org/sop
Case Manager Liability

- Negligence or breach of duty
- Failure to act
- Over- or underutilization
- Inappropriate care
- Discourteous behavior
- Communication failures
- Lack of IW understanding
- Lack of information
Case Law Addressing Liability

**GENERAL RULE**: employer- or carrier-employed case manager is generally entitled to immunity for negligence in treatment claim.

The longstanding rule: plant doctors and nurses enjoy the immunity of the Act.

*Budzichowski v. Bell Telephone Co. of Pennsylvania, 469 A.2d 111 (Pa. 1983).*
Case Law Addressing Liability

Also: Employer or carrier-employed case managers enjoy such immunity with regard to negligence in the “processing of claims.”


Thus, where the plaintiff, a WC recipient, complained of increased injury and failure fully to recover, because of an insurer’s refusal promptly to agree to pay for back surgery (requesting, instead, a second opinion), claim was barred by exclusive remedy.

Case Law Addressing Liability

Exception: Acts “subsequent to and independent of injury.”


- Employer and/or its agents alleged to have committed negligence in course of controlling claimant’s medical treatment:
- Court held that because activity transcended processing of the claim, and constituted activity “subsequent to and independent of” original injury, tort suit could lie despite the case having its genesis under the Act.

- Court, citing *Taras*, allowed “vocational malpractice” tort and contract claims against an employer’s job placement vendor, after vendor’s agent failed to take into inform potential employers of plaintiff’s incontinence.
- Claimant attended interviews and, as a result of counselor’s omissions, was embarrassed, as he was obliged to reveal condition.
- Civil action alleging vocational malpractice, breach of contract, and intentional infliction of emotional distress (IIED) allowed.
Case Law Addressing Liability


- Superior Court allows a WC claimant’s (IIED) claim against carrier and its adjuster.
- Adjuster (Z), in seeming attempt to leverage claimant (C) into C&R, harassed him by bringing up child abuse detected in records.
- Claimant sued adjuster and carrier in tort, alleging IIED.
- Trial court dismissed the case, but Superior Court reversed and remanded for trial. [more >>>]
Case Law Addressing Liability

- *Charlton*, continued... However, “claim that an insurer’s conduct in handling a claim exacerbated a non-work-related injury is not subject to the exclusive remedy.”

- Worker here had alleged that adjuster had “intentionally caused him an injury by referencing a non-work-related psychological injury ..."

- [W]e conclude that Charlton’s claim is not based upon a work-related injury, and that Charlton is not seeking the type of damages that would flow from such a claim ....”
Unethical Behavior

- Facebook “friend” an injured worker
- Offering legal advice to the IW
- Speaking negatively about a doctor
- Discussing other cases with an injured worker
- Speaking negatively about a CR or employer
- Referencing surveillance in documentation
- Agreeing to hand deliver a surveillance video
- Completing surveillance of your own
Letters of Representation

- Often addressed to CR
- Often don’t mention CM services
- IW may not have shared that they have CM
- Legal representation can be for any reason
  - Contact plaintiff counsel for clarification of CM services
Discovery and Disclosure
Discovery & Disclosure

**Definition:**

“The act or process of finding something or learning something that was not previously known”

(Garner, 2001)

- E-Discovery: Texts, e-mails, etc.
- Medical records
- Recorded statements
- Voicemails
- A recount of a conversation
- Hearsay information
Law Related to Discovery

Once a claim is in litigation, the claimant is obliged to permit discovery.

Law Related to Discovery

Under Rules of Practice, the Case Manager’s File is fully discoverable. 34 Pa. Code sec. 131.61.

This rule deals with cases in litigation, but since any open claim can easily be placed in litigation, the rule has the effect of obliging tender of a CM file (to authorized parties) even short of a pending petition.
Conflicts of Interest

“So, I’m the only one who sees a conflict of interest here?”
Conflicts of Interest

When a Case Manager member acts or engages in an activity that may jeopardize the injured worker’s care.

Example: Referral patterns

When a Case Manager engages in an activity that results in a benefit to the staff member.

Example: Bonuses based on under or overutilization
Medical Authorization/Consent

- Can be revoked
- IW can refuse to sign
- CM needs to comply with company policy related to the duration of the authorization
- DO NOT discuss any medical information unless your med authorization indicates that you may
PA WC Law and consents

Generally, the “HIPAA Privacy Rule does not apply to entities that are either workers’ compensation insurers, workers’ compensation administrative agencies, or employers, except to the extent they may otherwise be covered entities.”


Nevertheless, physician and hospitals will expect HIPAA-compliant authorizations
PA WC Law and consents

Discussions:


Questions?

Discussion