

STATE OF NEW YORK **OFFICE OF THE INSPECTOR GENERAL** OFFICE OF THE WELFARE INSPECTOR GENERAL OFFICE OF THE WORKERS' COMPENSATION FRAUD INSPECTOR GENERAL

EMPIRE STATE PLAZA

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LETIZIA TAGLIAFIERRO INSPECTOR GENERAL

May 14, 2020

Clarissa M. Rodriguez, Esq. Chair New York State Workers' Compensation Board 328 State Street Schenectady, New York 12305-2318

Re: WCFIG 3727-325-2019

Dear Chair Rodriguez:

On May 1, 2019, the National Insurance Crime Bureau (NICB) referred to the Office of the New York State Workers' Compensation Fraud Inspector General (WCFIG) a complaint from Travelers Insurance alleging that New York City area neurologist is making false positive diagnoses of traumatic brain injury (TBI) and post-concussion syndrome (PCS) in his review of patients claiming work-related injuries in order to generate expensive diagnostic testing. According to the complaint, it also appeared suspicious that referred subsequent magnetic resonance imaging (MRI) testing to a single provider and all other additional testing and treatment was being conducted in-house rather than by outside practitioners.

WCFIG's investigation of these allegations included a review of diagnoses, and treatment practices. This review found that from April 1, 2019 through June 30, 2019, saw 323 patients. WCFIG chose a random sampling of 25 patients from this total for an intensive treatment review.

In all 25 cases, the New York State Workers' Compensation Board (WCB) Employee Claim form (Form C3) filed for the claimant indicated that the claimant suffered head injuries. In eight cases, reported that the claimants had lost consciousness, although emergency room records contained no such notations for any of the claimants. In another four cases, emergency room records did not indicate any head injury (Cases and and and and and and and and and another four case, the claimant denied during his independent medical examination (IME) that he was diagnosed with a brain injury, and later reversed himself and sought treatment with after retaining counsel (Case In 10 cases, there were no emergency room reports and the claimant did not see a medical practitioner on the date of injury.
All 25 claimants reviewed by WCFIG received testing from for their neurobehavioral status and 22 were diagnosed with TBI and PCS. Thereafter, ordered testing to include neuropsychological evaluations, neurovestibular testing, electroencephalography (EEG) testing, and brain MRIs. All testing other than the MRIs was done in-house.
Twenty of the patients were referred for MRIs at a practice named, with as the practicing radiologist. performed MRIs with additional sequencing. This imaging technique has not been accepted as a standard of care by the American Academy of Neurology. Additionally, according to an independent medical examiner on case this technique has been deemed unreliable and is intended for assessing loss of brain volume for patients with dementia. reports, which always found an abnormal result including TBI or post-traumatic intracranial hypertension, noted that the patient "may" have the cited condition.
After the course of testing was completed, ordered the same treatment in all 25 cases. Each patient received cognitive remediation therapy, conducted in-house. For this therapy, submitted variance requests to the WCB, which were usually approved for a period of time. In some cases, continued the therapy after variance requests for further treatment had been denied by the carrier (Case also prescribed Boswellia (an herbal supplement) for headaches and magnesium gluconate supplements to prevent headaches for all but one patient. He never noted a prognosis for any of the patients.
Many of the tests and therapies billed and/or conducted by appear to be excessive and unnecessary. In some instances, therapies, even when not paid by insurance carriers, may have diverted patients from services that could have improved their conditions, if, in fact, the patient was suffering from any limitation at all.
Given the above findings, I have determined that this matter is more appropriate for the WCB to address. Therefore, I am referring this matter to your office for review
¹ Cases
² Cases

and appropriate action. Additionally, I recommend that the WCB advise the individual insurance carriers to monitor and review bills and variance requests.

Please advise me of any action taken by the Workers' Compensation Board in response to this referral within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General Robyn Adair at 518.474.1010.

Sincerely,

Letizia Tagliafierro Inspector General

Cc: David F. Wertheim, Esq. General Counsel