

Pre-Claim Examinations

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Pre-Claim Examinations - Since March 1, 2006

■ Presentation Goals:

- Review Regulatory Provisions
- Review Case Scenario
- Obtain views from Social Worker, Adjuster and Lawyer on case scenario and pre-claim issues
- Challenges of the Pre-Claim
 - When Pre-Claim examiners' and treatment providers' recommendations conflict
 - As with everything the rules can be used to the advantage or disadvantage of the person injured

We can't let the rules get in the way of doing what is best for the insured person.



Pre-Claim Examinations – SABS Provisions

What?

Purpose – assist insurer to determine if insured person is entitled to medical rehab or Accident Benefit that would assist person after discharge

- Examination by one or more members of one or more health professions chosen by the insurer
- Examination = in person assessment
 - History - parents, social worker (with consent), case coordinator
- Home Assessment
- AC– assess in environment where need care (hospital, home, school, outdoors, etc.)
- Hospital AC – Hospital does not provide A. C – so private provider or family should + insurer should pay

Pre-Claim Examinations – SABS Provisions

When?

- When insured person is still in the Hospital or was discharged within the previous three days
- after sign consent (OCF-26) – substitute decision maker can sign
- No Accident Benefit Application yet submitted
- If Accident Benefit Application has been submitted, no pre-claim allowed
 - Instead, insurer may provide list of potential treatment providers / liaise with to determine discharge needs

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Pre-Claim Examinations – SABS Provisions

However

- no reason to wait to complete AB application. In doing so, gain entitlement to other benefits.
- insurer not required to pay benefits until AB application submitted.

Main point qualified person needs to take responsibility for arranging services & devices for a safe, seamless discharge

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Pre-Claim Examinations – SABS Provisions

Who?

- One or more health professionals chosen by the insured
- Should do more than assess. If assess + find needs, should be authorized to arrange for needs to be met
- Patient should obtain agreement to this before agreeing to be assessed
 - *In practice* Occupational Therapy will assess
- May become treatment provider

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Pre-Claim Examinations – SABS Provisions

- Any limitations on experience or qualification?
 - No, but...
- E.G. O.T. who has 1 year experience & has not extensive clinical experience with kids should not assess
- N.B. find out assessor's credentials before agreeing to be assessed

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Pre-Claim Examinations – SABS Provisions

Duties - Insurer

- Insurer must select Examiner “reasonably qualified” to conduct the examination
- Insurer must obtain written and signed Consent of insured person before Pre-Claim Examination is conducted

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Pre-Claim Examinations – SABS Provisions

Duties - Insurer

- Insurer should not schedule Pre-Claim Examinations if not reasonably required
 - if no service provider – ok to arrange
 - if service provider – not reasonably required / since discharge needs can be known from client chosen service provider
 - if not agreeing up front to fund the needs identified “not reasonable”

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Pre-Claim Examinations – SABS Provisions

Duties of Examiner

- Obtain permission / protocol of facility:
 - social worker or care coordinator
 - (OCF 26)
- Prepare a written report within five days – can also be a “sign back” – should attach any written recommendations made by hospital

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Pre-Claim Examinations – SABS Provisions

Duties of Examiner

- Provide copy to insurer, insured person and insured’s health practitioner
 - Key: to ensure hospital recommendations are captured in report
 - can support funding for required services
 - should be emailed and hard copied

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Pre-Claim Examinations – SABS Provisions

Duties of Examiner

■ Difficulty

- will pre-claim examiner have full opportunity to obtain all info necessary to provide a complete assessment
- unlikely because of the time constraints

■ Example: pre-claim examiner is required to get info re all medical rehab needs what if doesn't get chance to meet with speech therapist, social worker, occupational therapist

- Problem: absence of comment on “need” in report might be taken by insurer to mean not needed. Examiner may not have had enough time.

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“Whoa – way too much information!”

Pre-Claim Examinations – SABS Provisions

Duties of Examiner

■ Conclusion

1. Pre-claim should only be taken by insurer to identify urgent, next to the moment needs in a rough & ready way
2. Insurer should rely most heavily upon treating practitioners for full assessments to identify all needs.

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Pre-Claim Examinations – SABS Provisions

Effect of Pre-Claim

- Pre-Claim is voluntary
 - However, failure to agree may affect future collaboration and coordination
- SABS says failure to consent “does not affect any rights the insured person may have to apply for or to receive benefits”
- SABS says “Report of an Examination...shall not be relied upon by an insurer in making a determination that an insured person is not entitled to the benefit” implicitly acknowledges limits of assessment

Misuse of Pre-Claim

- However, quick pre-claim leads to problems: If insurer receives Treatment Plan which makes recommendations different in nature or duration to that contained in Pre-Claim Examination, insurer won't likely approve treatment plan. Instead, insurer may arrange Section 42 examination

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Pre-Claim Examinations – SABS Provisions

Effect of Pre-Claim – Delays treatment if given same weight as more thorough treating professional report:

- Insurer cannot deny Treatment Plan on the basis of the Pre-Claim Examination findings
- Section 42 Examination must be completed in order for denial - leads to delay

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Pre-Claim Examinations – SABS Provisions

Adjuster Perspective on Pre-Claim:

Have to keep open mind, early days of injury , therefore changing needs, different environments causes different needs. Pre-claim is Rough + Ready + subject to treatment provider findings which are not completed under the same time pressures.

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CASE SCENARIO: EVA



- Eva, 15 year old girl with ADHD and a Learning Disorder
- Eva is identified as “special needs” through IPRC
- Eva works part time, lives with her mother, brother and sister
- Mother receives ODSP
- Mother’s boyfriend stays with the family 3-4 times per week and is insured by the Co-operators



- Eva was a pedestrian and was struck by a vehicle which fled the scene
- Off duty nurse witnessed the accident and found Eva unconscious on the roadway
- Off duty nurse assessed GCS=9
- Ambulance assessed GCS=11

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- Eva was taken to a local hospital and seizure activity was present en route
- CT scan completed resulting in diagnoses of a left frontal epidural hemorrhage, right temporal subarachnoid hemorrhage
- Right tibial plateau fracture
- Undisplaced right humerus fracture
- Transferred to Sick Kids

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- Surgery for Internal fixation at right knee done
- Right arm in a sling
- Eva has been irritable and impulsive and tries to get out of bed on several occasions
- Eva's mother stays at Sick Kids to provide care and comfort
- Co-operators contacted by mother

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- Eva is non weight bearing through the right side. She can transfer independently, but requires wheelchair for mobility. Eva requires assistance with all ADL's
- Compliance/behavioural changes
- Eva is medically stable and is to be discharged home in a couple of days
- Family consumed with Eva's health, don't think they need a lawyer right now

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Pre-Claim Examinations: Preparing for Change

- Initial concern was raised regarding change in legislation – Questioned need to implement and/or alter hospital policies regarding third party providers
- Risk management representatives attended legal in-service regarding Pre-Claim examinations and possible impacts that the new legislation could have on patients and families
- Wanted to ensure that the hospital supported families in the insurance claim process
- Did not want to create barriers that would impede access to services through the insurance system
- Protect patients and their families by ensuring that pre-claim examination did not interfere with care while in hospital

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Pre-Claim Examinations: One Year Later – Lessons Learned

- Few issues have arisen since the legislative change and implementation of the Pre-Claim Examination during the *acute phase* of hospitalization
- Small number of cases whereby the AB insurer denies responsibility regarding coordination of care at the time of discharge arguing that the family must consent to a Pre-Claim Examination first
- Hospital representatives and AB adjusters continue to work collaboratively to ensure a smooth and successful transition to home

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Before The Pre-Claim Examination: The Role of Hospital Representatives

- Provide information to families regarding Accident Benefits and the importance of initiating AB claim
- Assist families when required to initiate AB claim – advise regarding appropriate insurer
- Assist families to make contact with Police Services when required (Accident Report)
- Advise families to consider legal consultation/representation

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Hospital Policies & Procedures – Get Informed

- Third parties are not entitled to access patient information unless there is signed consent form on the medical chart from patient/guardians
- There are limited staff members available who fully understand the Accident Benefit Claims Process.
- Ensure you get connected to the primary health care provider who is assisting the family (Social Worker, Transitional Care Coordinator, Discharge Planner)

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Hospital Policies & Procedures – (cont'd)

- You may be denied access, even if a family member consents. Staff is attempting to protect patient rights.
- Medical information will be communicated verbally to third parties by health care providers involved in the patient's care.
- Access to a patient's medical chart is limited.
- Scheduling of insurer meetings with patients/families at the hospital should be in coordination with a social worker/health care provider who can assist in the facilitation of the meeting and the exchange of medical information.

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Hospital Policies & Procedures – (cont'd)

- Complete medical records are not available to third parties until the patient has been discharged from the hospital. This is often a lengthy process.
- Patient information from the medical chart is readily available to the patient/family.
- Should documentation of any kind be required by a third party (i.e. insurer/lawyer), the patient/family member can request medical information and have it copied through Health Records right away. (Under 10 pages, there is no cost to a parent. Additional pages will incur some expense)

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Recommendations for Hospital Practice

- Arrange for team/family case conferences to review:
 - Injuries
 - medical care and treatment
 - Interdisciplinary assessments
 - transition to home and/or rehabilitation centre.
- Include all involved parties (AB adjuster, examiner, legal representative)
- when possible
 - Maintain ongoing communications with AB adjuster, examiner and/or legal representative to provide medical updates, general progress and to facilitate discharge planning process
 - Arrange for the responsible physician to complete OCF-3 and OCF-19 (when indicated)

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Recommendations for Hospital Practice (cont'd)

Hospital representatives DO NOT complete treatment plans. However, hospital representative practice at the time of discharge should INCLUDE the following.

- Documentation (in the form of a letter) that includes:
 - A comprehensive list of injuries sustained
 - Documented GCS at scene or at time of arrival to the emergency department
 - A comprehensive listing of services required (i.e. OT, PT, SLP, Psychological Counseling, etc.)

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Recommendations for Hospital Practice (cont'd)

- Ensure that the frequency of service needed is clearly defined and that all equipment required to ensure a safe transition to home is indicated.
- Documentation of additional service needs (i.e. Referral submitted to Bloorview Kids for inpatient Neuro Rehabilitation)
- Contact information for primary health care provider involved should insurer/examiner require further information and/or they have any inquires post discharge
 - Copies of all relevant reports (OT, PT, SLP, SW) should be provided to the family, CCAC, Insurer and/or legal representative when further services are required in the community.

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Helping Eva: Determining Appropriate Insurer – Which insurer to contact?

- Insurer must “Pay and dispute – investigate claim while paying benefits”
- Can resolve priority issue with correct insurer or Motor Vehicle Accident Claims Fund in due course

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Initiating Accident Benefits – Explaining Entitlements & Coverage

Adjuster Arranges to Meet Mom

- Insurer explains accident benefit entitlements and insurer's responsibility
- Provide an Application for Accident benefits and describe the process for completing and submitting the application and the time-lines involved
- Address visitor expenses to date and provide an advance payment on expenses
- Explain how to claim for incurred expenses/all others paid directly by insurer
- Explain insurer's role in assisting with discharge planning (Pre Claim Exam)
- Describe privacy issues and need for consent to:
 - meet with hospital social worker
 - engage an Occupational Therapist
 - obtain ambulance and hospital records after discharge
- Provide family with information regarding involvement of a legal representative

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Assisting Client with Co-ordination of Service Needs

- Once mother has signed Release, meet with social worker and family
- Determine immediate needs in hospital
- Find out plan for discharge and document who from the hospital will be following patient at home and coordinating admission to Bloorview –Communication!
- Suggest “qualified occupational therapist” to work with hospital and family for discharge planning - Assign pre-claim examiner
- Request social worker help family with completion of Disability Certificate

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Pre-Claim Examination

- Pre-Claim Examination is voluntary
- Can't be used to deny benefits
- Obtain mother's signature on OCF 26 so can proceed with Pre-Claim (process varies)

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Purpose of the Pre-Claim Examination:

- To ensure the patient has the proper equipment and services in the home prior to discharge
- Assist the family by providing education on caring for the patient and ensure the patient's safety in the home
- Co-ordinate treatment recommended by hospital staff

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Pre-Claim Examiner: Qualified Occupational Therapist

- Meet with Eva, her mother and discharge planning team or co-ordinator
- Do assessment of home – equipment – other resources
- Complete Form 1
- Identify community service providers and ensure treatment recommendations are implemented.

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Home Assessment

- Examiner visits home for accessibility, availability of bedroom/bathroom on main floor
- Examiner assesses home safety and recommends devices to accommodate Eva safely and comfortably

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What does the Pre-Claim Report Address?

Recommendations for Goods and Services, including:

- Medical
- Rehabilitation
- Attendant Care
- (as identified by hospital staff and examiner)

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Assignment of a Case Manager?

(Only mandatory if catastrophic – too soon to tell)

Because of Complexity:

- Co-Operators would advise Eva's mother that the choice of service providers is Eva and her mother's
- The need to have the assistance of a qualified person to:
 - ensure provision all of the goods Eva requires
 - coordinate the services of the treatment providers
 - ensure good communications with the hospital, insurer, legal representative and any others involved in Eva's rehabilitation (family doctor, school)
- Pre-Claim Assessor could stay on to co-ordinate services until all goods and services are in place after discharge if family wishes

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Challenges Caused by Pre-Claim Examination

Family Concerns:

- No requirement for insurer to pay until application for A.B.'s submitted
- May receive different advice about benefit entitlements
 - In hospital attendant care
 - CAT or non-CAT
 - case manager
- Not sure if pre-claim is “voluntary” – worry that needs won't be met if don't cooperate. Example: Question by client: “What if I don't consent?”. Response by adjuster: “you may not get your services.”
- Not sure who to hire for discharge treatment – “Are you working for the insurance company?”

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Challenges Caused by Pre-Claim Examination

Family Concerns:

- What would be different if a lawyer was involved?
Gain immediate entitlement to all benefits – A.B. application submitted
- Involving a specialized lawyer should guarantee:
 - Immediate application for benefits, attendant care, CAT
 - Choose treatment providers who advocate for client solely
 - Right insurer chosen, no quibbling over which insurer
 - No conflict between pre-claim and treatment providers' recommendations...
 - Benefits start right away – can't start until A.B. application submitted – won't have right to in-hospital attendant care unless & until application completed and submitted Form 1 done

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Challenges – When Pre-Claim Examiner Recommendations Conflict with either Hospital Representative or Private Treatment Providers' Recommendations

- Delay in approval, delayed treatment
- Section 42 Examination will have to proceed
 - Leads to adversarial approach and delay
- Need for Lawyer if benefit denied
- Since no DACs, if a benefit urgently needed is denied may need to bring Interim motion for benefit through arbitration

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Challenges – When Pre-Claim Examiner Recommendations Conflict with either Hospital Representative or Private Treatment Providers' Recommendations

- If the treatment provider and lawyer are immediately involved, not only with immediate and discharge needs be met, but there will be no conflict between a pre-claim examiner's views and a treatment provider's views, since there is no pre-claim
- There are better alternatives to avoid delay...
- Keep in mind pre-claim is quickly done based on limited info at a time when persons condition is constantly changing.
- Need to avoid perspective that treatment provider's assessment is wrong and pre-claim examiner's assessment is right...
 - usually the opposite will be true where the reports vary...

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Recommendations and Solutions Regardless if there is a Pre-Claim or not

- *Ongoing Communication and collaboration between hospital, family and insurer is critical*
- *Lawyer can ensure immediate access to all benefits, medical, rehab and care benefits by completing A.B. application and getting insurer approval of needs*
- *Immediate Completion of Accident Benefit Application and Disability Certificate (and CAT application if applicable) to ensure access to benefits*
- *Provide hospital documentation to insurer*
- *Ineffective Pre-Claim exam can delay entitlement if all needs not identified*
- *If Pre-Claim exam proceeds, Hospital should receive report before discharge if possible and insurer should make efforts to fulfill all recommendations*
- *Insurer should keep open mind to treatment provider’s recommendations where different from pre-claim examiner. Dialogue instead of dispute.*