

Thomson, Rogers in conjunction with Bartimaeus Inc.

Navigating the New SABS: Practical Solutions

Courtyard by Marriott Hamilton | Monday, April 26, 2010

FINDING SOLUTIONS TO KEY CHALLENGES

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Personal Injury Lawyers

Squeezing the Most out of \$50,000.00



Solutions when Non-CAT Limits are gone



The Tort Claim

- Victim may claim attendant care and med/rehab expenses not payable from accident benefit insurer against at-fault parties
- Assessable disbursements – medical/legal reports
- Where no tort claim, lawyer may consider underwriting costs of assessments in suitable cases

The Tort Claim cont'd

- Ask for advance in suitable cases
- Will help victim “mitigate losses” limiting at-fault parties’ exposure
- Lawyer to think about issuing claim earlier in process and moving action forward expeditiously

Squeezing the Most out of \$50,000.00

- Hospital Discharge
- Travel
- Utilize Other Funding Sources
- Smart Spending
- File Management

Hospital Discharge

- Connect with hospital prior to discharge
- Encourage discharge team to make specific recommendations for treatment in the community
- Minimize cost of assessments

Travel Time

- Use local healthcare providers
- Flat rate travel
- Prorate when possible
- Creative scheduling
- Office visits?

Utilize Other Funding...

- Employer benefit packages
- Ontario Disability Support Program
- Community Care Access Centre
- March of Dimes
- OHIP

Utilize Other Funding...

- Trillium Drug Program
- ADP
- Utilize community programs and volunteer organizations
- DVA if appropriate
- Residential Rehabilitation Assistance Program for Disabled Persons (RRAP-D) through CMHC

Smart Spending...

- Rental versus purchase of devices?
- Use local vendors to reduce delivery costs
- Use support staff – Rehabilitation Therapist
- Telephone or email follow-up prior to visiting

File Management...

- Avoid file transfers if possible
- Don't visit client unless necessary treatment provided
- Make it an IE

File Management...

- Shorten reports and avoid redundancy
- Communication with other team members to reduce duplication of service
- Consider fax, phone, or email to consult with other providers versus in-person meetings (e.g. visits to family doctor)

Reconsider Core Concepts. Reasonable and Necessary.

- In **Plows and Jevco**, Arbitrator Rother concluded that reasonable meant:

“In accordance with reason, not absurd; and within the limits of reason; not greatly less or more than might be expected; inexpensive; not extortionate; tolerable; fair.”

Reasonable and Necessary

- In **MacPherson and Pilot**, Arbitrator Makepeace concluded:

“the schedule does not require an insured person to exhaust all other possibilities before incurring an expense.”

Victim is not required to jeopardize her health in order to find least expensive option.

Unfair & Deceptive Practices



1. For the purpose of the definition of “unfair or deceptive act or practice” in Section 438 of the *Act*, each of the following actions is prescribed as an unfair or deceptive act or practice:

(9) any conduct resulting in unreasonable delay in, or resistance to, the fair adjustment and settlement of the claims.

Reasonable and Necessary

In **MacMaster and Dominion**, Arbitrator Makepeace considered the argument that med/rehab benefit may exhaust lifetime limit

Key consideration:

Is the benefit in a legitimate rehabilitation goal that makes sense?

The “GAP”ers...

- Reserve some attendant care funding in the event of CAT application
- Transition client to public services prior to funds discontinuing
- Help clients to gradually reduce non-essential then eventually all services months prior
- Encourage them to continue to keep track of their needs and expenditures during the GAP

Treatment Plans

Just because the money has run out doesn't mean the Treatment Plans should stop.

Interim Benefits Motion

- Ask for early declaration of catastrophic impairment in appropriate cases and payment of benefits pending resolution

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THANK YOU!

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