

6th Edition of the AMA Guides to Permanent Impairment

Diana Ferriter, Bureau Chief
Workers' Compensation Claims
Assistance

Employment Relations Division

diferriter@mt.gov 444-1574

Presentation to:

Labor Management Advisory Council on
Workers' Compensation

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Why It's on LMAC's Work Plan?

- Tom Murphy, Attorney, Great Falls
- Spoke to you about the 6th Edition on 12/4/2008
- He requested support of LMAC for legislation to maintain status quo by mandating use of the 5th Edition
- ERD – Receiving requests for assistance and mediation of disputes over decreases
- Preliminary results from ERD Data – overall decrease in impairment ratings – not enough cases to be statistically valid

What's the Issue with the 6th Edition?

- Advocates Say:
 - Provides more reasonable & consistent methodology
 - Doctors used to diagnosis based system
 - Increases consistency of ratings among physicians
 - Promotes ease of use in defining impairment v. disability
 - More accurate than previous editions

What's the Issue with the 6th Edition?

■ Critics Say:

- Decreased benefits due to decreased impairment rating percentages
- MT Legislature didn't debate or endorse resulting changes to benefits
- Difficult to learn
- Takes longer to evaluate impairment
- Biased toward insurance interests
- Not evidence based
- Diagnosis does not equal function

What Have Other States Done?

- 12 states (including MT & DC) have statutory mandates to use 6th or latest edition of the guides
 - Alaska, Alabama, District of Columbia, Indiana, Kentucky, Massachusetts, Mississippi, Montana, Nevada, New Mexico, Tennessee, and Wyoming

What Have Other States Done?

- 8 states use the 4th Edition
- 10 states use the 5th Edition
- Other states use their own or some combination
 - For example, Utah uses its own or the 5th Edition
 - Florida uses its own

Some State Studies and Survey Responses

- 2008 IOWA AMA Guides Task Force Report
 - 8 voting members of doctors, attorneys, and representatives of employees and employers
 - Comprehensive Evaluation and Report
 - 7 members did not recommend adoption of the 6th edition
 - <http://www.iowaworkforce.org/wc/amatas/kforce/2008amaguidesprocessreport.pdf>

Some State Studies and Survey Responses

■ Kentucky

- Legislation required study by Commissioner to adopt 6th or retain 5th Edition
- Commissioner recommended retaining the 5th Edition until further study of the impact on income benefits
- Commissioner recommended addressing medical benefit cost drivers before reducing income benefits
- <http://www.labor.ky.gov/NR/rdonlyres/DC046C16-F0FF-4BB5-98B8-7C1CE7E92D02/0/CommissionerReportonAMAGuides.pdf>

Some State Studies and Survey Responses

■ Nevada

- SB195 requires use of the 5th Edition rather than the 6th Edition
- NV's legislature overrode the Governor's veto with a 2/3 vote in both houses
- NV rejected the 6th edition since it represented a benefit cut to injured workers
- <http://dirweb.state.nv.us/wcs/summernews.pdf>

Some State Studies and Survey Responses

- Oklahoma response:
 - Uses AMA Guide in effect at time of injury
- Tennessee response:
 - Adopted 6th Edition in Jan 2008
 - Rep. West will introduce HB1574 to retain 5th Edition next year
- Texas: Conducting survey of states regarding use of 6th Edition
- Vermont response:
 - Statute recently amended to require use of 5th Edition and require legislative approval before changing to any other edition

Comparison of Evaluations Using the AMA Guides 5th and 6th Editions

- Dr. Mark Melhorn's Article in the 2009 IAIABC Journal, Vol. 46 No. 1, "Musculoskeletal Impairments – A comparison of Evaluations Using the AMA Guides 4th, 5th and 6th Editions"
- Seven surveys were sent to experienced users of the Guides, including: Board Certified in Orthopaedics, Family Medicine, and Occupational Medicine

Upper Extremity Diagnosis-Based
Impairment Examples – Dr. Melhorn –
IAIABC Journal Vol. 46 No. 1 – pg. 95

	<u>6th Edition</u>	<u>5th Edition</u>
Wrist Ganglion Cyst	2% \$2,348	0% \$0
Biceps Tendon Rupture	4% \$4,695	6% \$7,042

Lower Extremity Diagnosis-Based
Impairment Examples – Dr. Melhorn –
IAIABC Journal Vol. 46 No. 1 – pg. 96

6th Edition 5th Edition

Subluxing Patella
(Knee)

6%

3%

\$7,042

\$3,521

Hip Fracture

12%

25%

\$14,085

\$29,344

Spine Impairment Examples – Dr. Melhorn – IAIABC Journal Vol. 46 No. 1 – pg. 97

	<u>6th Edition</u>	<u>5th Edition</u>
Cervical Disc herniation single level with fusion	7% \$8,216	25% \$29,344
Cervical Fxs multiple levels w/radiculopathy	29% \$34,039	23% \$26,996

SUMMARY

- 6TH Edition is controversial in MT and other states
- Will result in some decreased benefits and some increased benefits to certain impairments
- Court challenges are probable
- Changes may only occur through legislation or Court decision

Next Steps?

- Next Meeting:
 - Request Advocates and Critics Speak to LMAC?
 - Request Dr. Douglas W. Martin present his 6th Edition Evaluation to LMAC?
 - Present ERD's Data on impairment ratings?
 - Other presenters?
 - Other information?

References and Sources:

- Tom Murphy's letters to Diana Ferriter dated May 8, 2009 and June 1, 2009
- AMA Guides Sixth Edition: Perceptions, Myths, and Insights, 2008 Brigham and Associates, Inc. – www.impairment.com
- The AMA Guides to the Evaluation of Permanent Impairment – 6th Edition – Separating Fact from Fiction & Interpretation from Innuendo, Douglas W. Martin, MD, FACOEM, FAADEP, FAAFP, Medical Director at St. Luke's COHE, Sioux City, IA
- Workers' Compensation Laws, 2nd Edition – A Joint Publication of IAIABC and WCRI – June 2009 - Table 6. Permanent Partial Disability Benefits as of July 1, 2008
- Musculoskeletal Impairments – A Comparison of Evaluations Using the AMA Guides 4th, 5th and 6th Editions – Dr. Mark Melhorn – IAIABC Journal, Vol. 46 No. 1