



New code promises changes to the way lower-value claims are treated

Revised rehab code addresses loophole after ‘challenging’ consultation



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Those involved in putting the updated rehabilitation code together have conceded it was a “challenging” process to satisfy all parties ahead of the code becoming operational in December.

Despite some dispute between those involved in the revised code, which includes clarification on the current loophole of firms with links to each other in the process, the final document was finally published this week.

Mark Baylis, chair of the International Underwriting Association – Association of British Insurers rehabilitation working party, admitted that creating the updated code had been a challenge for all involved.

He told *Post*: “The process is always challenging because everyone views rehabilitation differently. I would not deny that putting this revised document together has not been a challenge. But we got there in the end.”

Baylis stressed that the time was right for an updated code to be introduced as “the old code was becoming irrelevant to smaller injuries”.

He said: “The new code is much better, especially at the lower cost end of things. It will do the job, we don’t expect it to be perfect.”

Carole Chantler, director of clinical services at legal firm DWF, was in charge of one of the working

parties that contributed to the revised code, and agreed with Baylis that the process of finalising the document had been a rocky road.

She said: “It’s meant to be a collaborative effort and conflict of interest comes into anything. We live in a democracy and it’s about what the majority agrees with. Putting the new document together was always going to be a long process.”

Chantler noted that changes to the way lower-value cases are treated had proved to be a particular point that required detailed discussions with all parties.

The revised version of the code includes a section for lower-value claims and a separate guide for rehab case managers and people who commission them.

For lower value claims, which are defined as claims up to £25,000 in value, the document recommends that a more streamlined process is put in place, while for larger, more serious cases, the document recommends that case managers work more closely with NHS clinicians.

“We had to be very careful of what we were suggesting as this is a voluntary code and we had to make sure that what the document recommends does not clash with any legal obligations,” she explained.

“The code is being released later than expected but we have finished up with a good document. It’s not really a revolution, it’s an improvement on the previous version.”

Experts were also pleased to see the code include clarification on the loophole concerning firms with links to each other.

Point 4.7 of the revised code states:



Baylis: differing views on rehab

“The triage and the preparation of any subsequent assessment and discharge report and/or the provision of any treatment may be carried out or provided by a person or organisation having a direct or indirect business connection with the solicitor or compensator only if the other party agrees.

“The solicitor or compensator will be expected to reveal to the other party the existence and nature of such a business connection before instructing the connected organisation.”

Commenting on that point, Helen Merfield, rehabilitation consultant, said: “This is needed to increase governance in the industry. I’m impressed that this is addressing the loophole that has meant the system was open to abuse previously and not operating in the best interest of the injured parties.

“There are rumours in the market of insurers receiving bills for treatment that has not happened, over-charging or over-treating. As a friend of mine once said allowing this is like putting rabbits in charge of lettuces.”

Chris Eccles, legal director in

the clinical and healthcare team at law firm Clyde & Co and a member of the Forum of Insurance Lawyers, told *Post* he too was satisfied with the updated code.

He said: “There is greater transparency in the new document and there is more work with the NHS and employers, which will be a good thing.

“Foil, insurers and solicitors are all supportive of rehabilitation but the proof will be in the pudding as to whether the new document ‘does the job’ required of it. People who are well-versed in using the previous document will notice slight tweaks in the new version.”

Helen Spillards, rehabilitation case manager at Accident Rehab, welcomed the updated version of the code and told *Post* that some of the smaller changes to the document would help eliminate fraudulent claims being made to insurers.

“From a case manager’s point-of-view the revised code is really good,” she said. “The new code requires a discharge report from the practitioner that has been treating the patient.”

Spillards explained that previously a discharge report from a doctor had not been recommended and she had heard of cases where a company had put a claim for rehab costs through after just getting an invoice for the proposed cost of rehab. The patient would have got the claim for the quoted costs, but may have never received any treatment.

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