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Insurance reports

Case histories are based on actual medical negligence claims or medicolegal referrals, however certain facts have been omitted or changed by the author to ensure the anonymity of the parties involved.

General practitioners find their patients requesting that they complete documentation for a myriad of insurance purposes. Often these forms are time consuming to complete, containing seemingly irrelevant questions. This article examines the responsibilities of GPs in providing reports to insurance companies.

Case history

Mrs Young, 82 years of age, presented to her general practitioner with a travel insurance form for completion. The patient wanted to travel to the United States to visit her only son who had recently been diagnosed with cancer and had a very poor prognosis. On review of the medical records, the GP noted that Mrs Young had had an acute myocardial infarction 7 months earlier and had undergone coronary stenting. The patient had continued to experience frequent episodes of angina and her cardiac medications had required a number of changes. The insurance medical declaration form requested details about the patient's cardiac status and included a question: 'In your opinion is your patient fit to undertake the proposed journey without requiring any additional medical treatment in connection with any conditions currently under treatment?' The form also asked the doctor to declare that: 'the information detailed on this form is accurate and complete and that no information has been withheld which may influence the insurer'. The patient told the GP that she was desperate to see her son and stressed that her heart problems were now much better. However, the GP was not sure if the patient's cardiac status was sufficiently stable to allow her to travel safely to the United States. While the GP wanted to help Mrs Young to see her son, she was uncertain about her legal duty in completing the form and whether she was obliged to provide her opinion about fitness to travel.

The general practitioner contacted her medical defence organisation and was advised that she should not state that the patient was fit to travel if she did not believe this was correct or she was unsure. Although it was understandable that the GP wanted to act as the patient's advocate and support her in obtaining travel insurance, she also had a responsibility to complete the form in an accurate and objective manner. The GP decided that she would contact the patient's cardiologist and discuss the situation with him before providing advice and completing the form for her patient.

Discussion

In order to complete travel insurance forms, GPs will often be asked whether their patient is medically fit to travel. Most travel policies require information about the presence of a 'pre-existing illness' and its 'stability' if the patient is requesting insurance cover for a pre-existing illness. In

many cases, this assessment will be straightforward but from time-to-time this opinion will be complex and difficult to determine. Ultimately, the decision whether to provide travel insurance and, on what terms, is between the patient and the insurance company. However, the GP may be asked their opinion and will need to make an informed decision about whether the patient is stable enough to travel. On the basis of this decision and a careful review of the insurance policy and terms, patients will then be able to determine whether travel is a viable option.

Risk management strategies

General practitioners are frequently asked to complete insurance reports for their patients. These include reports for life, disability, income protection and travel insurance. One GP tracked the forms that he was asked to complete. In the space of 4 weeks, the GP saw more than 35 different types of forms, with an average of 5–7 requests each day.¹

Frequently asked questions

Am I obliged to provide a report about one of my patients to an insurance company?

Provided the GP has the permission of the patient to send a report to the insurance company, and a reasonable fee has been paid, a GP has an ethical obligation to provide factual information that has been requested by the insurer. Patients may need this information in order to enable their application for insurance, or their claim, to be processed. If the GP fails to comply with a reasonable request, the GP may become the subject of disciplinary action by their Medical Board. The Medical Practitioners Board of Victoria 'regards the provision, for a reasonable fee, of a factual report of the history, findings, treatment and progress of a patient's condition to be part of the doctor's professional responsibilities. The report must be provided with the patient's consent. Failure to provide a report within a reasonable time frame, without adequate reason, may be deemed by the Board to represent unprofessional conduct'.²

How much should I charge for the preparation of an insurance report? Who is responsible for the payment?

The determination of a reasonable fee for the preparation of a report will depend upon the nature of the report and the time required in its preparation. Generally, it is appropriate to charge on an hourly basis for the time taken to prepare the report. Substantial fees should not be made for photocopying or reissuing a previously prepared report. As a guide, the New South Wales Law Society and the Australian Medical Association suggest a fee of \$121 for a report where a re-examination of the patient is not required and \$184 where a re-examination of the patient is required.³

The decision to charge a patient or an insurance company for a report rests with the individual GP. The insurer will usually be responsible for payment of a report for life, income protection and disability insurance. It may be prudent to request pre-payment from the insurer, once you have estimated the likely cost of preparing the report. In some cases, such as travel insurance, the insurer will not

pay for completion of a report and patients will be responsible for any costs.

If asked, should I provide a copy of the patient's medical records to the insurance company?

Upon receipt of an appropriate patient authority, GPs are required to provide a copy of a patient's medical records to an insurance company under the amendments to the *Privacy Act*, which were introduced in December 2001.

A common problem faced by GPs is that an insurer will send a pro-forma authority signed by a patient authorising 'release of medical records relevant to the claim', but the covering letter from the insurance company will demand a complete copy of the patient's medical records. Ultimately, it is the patient's decision whether or not to provide a complete copy of their medical records to a third party. In the situation where an appropriate patient authority has not been provided, the GP can either ask the insurer to provide an authority which enables a complete copy of the records to be provided, or the GP can ask the patient directly – whichever course of action is most convenient and practical.

What are the potential legal ramifications for failing to provide a report in a timely manner or providing incomplete information?

Disciplinary proceedings may be commenced against a GP for failing to provide a report or providing an inaccurate report. In two recent cases involving GPs, the Medical Practitioners Board of Victoria made findings of unprofessional conduct of a serious nature for delays of 12–30 months in providing insurance reports.⁴ As a general rule, reports should be provided within the timeframe agreed with the requesting party and, ideally, within 60 days of the request for a report. There is also the possibility of a claim arising out of the failure to provide a report in a timely manner. Liability may occur where it was established that the delay in providing the report was negligent and the patient would have been provided with insurance if the report from the GP had been provided. Additionally, the omission of important information or

provision of inaccurate information by the GP could result in the insurer refusing to pay a patient's claim and create a potential liability for the GP.

Conflict of interest: none.

References

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