Uniform Task Based Management System
Workers’ Compensation Code Set 2010

The Uniform Task Based Management System (UTBMS) Litigation Code Set (code set) was developed by a consortium of lawyers and in-house counsel under the auspices of The American Bar Association (ABA)/Association of Corporate Counsel (ACC) in 1994-95. The mission was to develop an alternative to the billable hour system of billing that captured budgeting and practice management considerations. The consortium assigned responsibility to develop the system looked to analogous professional services for indicators on what worked and didn’t work as practice management system methodologies. The medical profession had developed task code systems to plan, budget and manage billings for complex surgical operations. While acknowledging and respecting the knowledge management requirements and ethical responsibilities of doctors, the medical profession recognized that there was a logical progression to surgical procedures encompassed in phases that could be broken down into uniform tasks and activities. These tasks and activities could be coded. Whether and to what extent a doctor performed each and every task and the time devoted to its successful completion was a matter of professional judgment and ethical responsibility to patient care and wellness.

Litigation also has a logical progression that is encompassed in phases. These phases encompass uniform tasks and activities that can be linked to codes. The codes can be used as a budgeting mechanism to develop a mutually agreed upon litigation plan between the lawyer and client. The codes can subsequently provide a platform for billing that clearly communicates to the client what was done. The time allocated to each task in the bill reflects the professional judgment and ethical responsibilities of the lawyer.

UTBMS is digital based making it ideal for e-billing. It has become synonymous with LEDES supported e-billing applications. E-billing requires that task reporting be accurate and clearly identify what the client is being billed for. Insurance defense litigation has emerged as the dominant user of “task based billing” systems.

Insurers and insurance defense firms that have substantive workers’ compensation expertise, although supportive of its methodology, have criticisms about task gaps in code phases and ambiguity in the wording of existing tasks. The UTBMS Workers’ Compensation (UTBMS-WC) Code Set 2010 remedies ambiguities and deficiencies in task based budgeting and billing for workers compensation litigation while retaining compatibility with the methodology and integrity of the UTBMS Litigation Code Set that is the foundation for e-billing.
Commentary & Practice Tips

How to Use This Guide
This guide is designed to enable insurance Workers’ Compensation (WC) claims/litigation managers, WC insurance defense attorneys, and bill reviewers to develop a mutually beneficial working relationship.

WC claims/litigation managers should use this guide as a mechanism to ensure that litigation management guidelines and standard reporting formats conform to best practices utilization of the UTBMS – WC Code Set.

- Examine your guidelines and reporting requirements. Do they make sense when you compare them to the best practices utilization format for planning, budgeting and reporting as articulated in Phase 100?
- Are your outside attorneys aware that the UTBMS – WC Code Set and the guide represent the foundation for your reporting requirements and of your expectation that they will adhere to these practices in their budgeting and billing?
- Have they made their claims/litigation staff conversant with the UTBMS – WC Code Set and indicated that they are required to review legal bills by interpreting task codes in conformance with the Commentary & Practice Tips?
- Does your e-billings vendor have the systems in place to support best practices application of the UTBMS – WC Code Set in bill transmission and bill review?
- WC insurance defense attorneys should use this guide as their primary resource for budgeting and billing for WC claims.
- Have you participated in a Workers Compensation Group UTBMS – WC Code Set users workshop to become conversant in the use of the code set?
- Do all of your attorneys have quick and easy access to the UTBMS – WC Code Set, and Commentary & Practice Tips through an internal electronic link?
- Has your law firm provided attorneys with easy access to the user guide through an electronic link and informed them that it is firm policy to use the guide as the primary resource in all WC insurance defense claims file management?
- Have you familiarized your billings clerk/department with the role and function of the UTBMS – WC Code Set?
- Have you installed a default mechanism in your billings department that provides your billings clerks with easy access to the UTBMS – WC Code Set and user guide with instructions to preview all bills prior to transmission to a client to ensure they are properly coded?

E-Bill Systems vendors and bill reviewers should use the guide as their go to source for bill verification, first instance bill review and resolution of appeals.

- Has your WC bill review team participated in a Workers Compensation Group UTBMS – WC Code Set users workshop to become conversant in the use of the code set?
- Has your bill review team been instructed to utilize the Commentary & Practice Tips as the primary resource for validating a task code and/or bill submission?
- Has your e-billings system been configured to support a full-service application of the UTBMS – WC Code Set for bill review and analytics?
- Have you installed an easy to access source in your system that prompts bill reviewers to utilize the user guide as the standard for analyzing and evaluating legal bills?

Case Planning

Workers’ Compensation Case Management

All litigation, including workers’ compensation, is a resolution mechanism. The focus of conventional P & C insurance litigation is dispute resolution of the entire case. However, the special nature of Workers’ Compensation with its emphasis on resolution of workplace injuries based on no fault creates two classes of resolution; “case dispute resolution” and, “cost effective issues resolution” of claims.

Workers Compensation litigation can be classified on the basis of the following categories:

A. Pre-Litigation Opinion Cases

This involves cases where factual and legal issues arise although the case is not yet in active litigation. Often the Adjuster/Claims Manager/Employer requests legal opinions or legal guidance on a particular issue involved in the case. The attorney then reviews the facts and legal issues to provide a thorough analysis reflective of thoughts and recommendations for the future handling of the Claim. This may include addressing the following:

- Filing of appropriate state forms
- Calculating the average weekly wage and compensation rate
- Defenses
- Exposure of Claim
- Case value for settlement purposes
- Ways to limit and/or mitigate exposure
- Development of future defenses
- Causal Relationship issues
- Medical benefit issues

For example, properly calculating the average weekly wage and compensation rate to insure the accuracy of the figures to pay Workers’ Compensation benefits and avoid any overpayments or underpayments. Further, providing a factual/legal analysis as to the overall case value from an exposure standpoint including but not limited to ways to limit exposure and also reviewing medical records to determine the basis for denial including but not limited to causal relationship, reasonableness and necessity. Many of the tasks under the Pre-Litigation Opinion assessment will likely fall within the WC110, WC120 codes or WC210.

B. Current Benefit Actions Matters placed in litigation

When benefits are being paid litigation often arises to address late or inaccurate benefit payments, improper or inaccurate filing of state forms, refusal to pay medicals or inaccurate payment of medicals, failure to pay attorney fee or inaccurate amounts of attorney fees and failure to pay awarded litigation costs. An analysis is provided to address these legal issues promptly and thoroughly.

Activities in this category fall mainly with WC120. The Attorney, Claims Professional and the Employer engage in discussions and conferences to identify the action plan and strategy for handling a precise issue raised in the litigation.
C. Pre-Action Opinion Case Assessment

Litigation arises but often concludes promptly when a legal opinion is provided resolving the issue. Based upon the facts and law, the claim is deemed compensable and medical treatment found reasonable, necessary and casually related to the injury. Further analysis is provided under this section in an effort to limit the ongoing exposure for wage loss benefits and/or medical.

Many of these tasks fall within WC110, WC120 and WC130. The description provided by the attorney in this section should clearly and distinctly outline the activities being performed to enable the bill reviewer to determine the actual activity being performed and the service provided and its applicability to the Claim.

D. Open File Medical Assessments

A common occurrence in the workers’ compensation claim arena is a request for assistance in dealing with medical issues that arise during the evolution of a claim. Choice of physician issues, including a requested change of physicians, can often lead to a need for legal assistance. Sometimes there are challenges as to whether medical problems are casually related to the injury and still other times there is concern for the kind of medical treatment being recommended, all of which leads to a request for assistance from counsel. In some jurisdictions, motions to deal with such issues can be filed and heard even though the matter is not in a full litigation status. When those issues are presented and counsel becomes involved, the tasks can fall within WC120, WC130, WC210, WC230, WC430, as well as others, depending on the pre-litigation and litigation procedures within a jurisdiction.

E. Case Dispute WC Action

In the traditional setting where litigation is filed, the defense attorney is called upon to perform a complete and thorough analysis of the facts and issues in dispute; file responsive pleadings; initiate discovery; formulate an action plan and budget; and proceed as agreed with the client in the further handling of the litigation. As a consequence, virtually all of the codes within the UTBMS – WC Code Set can come into play at one time or another, depending on the rules and procedures to be followed within the particular jurisdiction.

Examples of the use of the code set can be seen in these activities:

- WC 120—Review and analysis of complete file; Preparing summary and evaluation correspondence to client with outline of action plan;
- WC 150—Preparation of budget;
- WC 210—Preparation of Answer and Affirmative Defenses;
- WC 310—Preparation of Interrogatories to Claimant;
- WC 330—Preparing for (and taking) Claimant’s Deposition;
- WC 340—Preparing for (and taking) treating physicians’ depositions;
- WC 410—Preparing lay witness testimony in preparation for trial;
- WC 420—Preparing Expert witness testimony in preparation for trial;
- WC 440—Preparing for trial;
- WC 450—Attending trial;
- WC 460—Reviewing Order entered by Tribunal;
- WC 510—Preparing Notice of Appeal;
- WC 520—Preparing appellate brief;
- WC 530—Attending oral argument.

These illustrations perhaps explain best how the UTBMS – WC Code Set is designed to capture the activities involved in the traditional WC litigation context. Of course, the “Phase” code for each time entry is further explained by one of the Activity codes already in use with the Litigation UTBMS Code Set, but the point is that the plethora of activity in the handling of a WC matter can be captured by using this set.

If an alternative or flat fee arrangement is in use with a client, each “Phase” of the activities contemplated within the Code set has a “catch all” code, designated as WC180, WC280, WC380, WC480, and WC580 for the activities within that “Phase”. As an example, if a flat fee arrangement is in place for the handling of an appeal, whether it is preparing the brief, attending oral argument, or whatever, WC 580 could capture all of the time spent that is covered by the alternative billing arrangement.

F. Issues Resolution Claims

In some jurisdictions, notably New York, a WC claim is focused on issues resolution. The case is reviewed and/or re-opened periodically as and when new issues arise or there is a need for review of an outstanding issue. Virtually all of the task codes can come into play depending on the breadth and scope of the issue.

G. WC Dispute/Issues Claims Closure

It is often said in the WC world that “the best file is a closed file”, and considerable focus is had on settling workers’ compensation claims. The use of WC160 will capture those activities repeatedly, whether the activity is completing a settlement analysis, participating in negotiations, preparing for or attending mediation, completing the settlement documentation, or dealing with Medicare issues. All of that falls within WC 160. Some of the flat fee or other alternative fee arrangements regularly show up in dealing with the settlement process, and the use of WC180 to capture that time is contemplated.

Budgeting

Budgets aren’t ends. They’re means to an end. “A budget is the financial compass of a workers’ compensation (WC) defense litigation action. A compass is an indicator of direction not the end determinant. A WC budget provides an opportunity for an insurance defense attorney to build a foundation for the cost management of a claim and indicate the direction they intend to follow. It facilitates communication and development of a common understanding about the cost implications of a pending action or case in progress. A good budget is intended to provide direction while being flexible enough to be open for modification and amendment to respond to the challenges that occur in the course of any WC action. One of the primary purposes of a budget is to provide the WC insurance defense attorney and client with a means of communication that is risk management focused. The case plan budget brings the critical cost/benefit dynamic into the case management strategy.

Benefits of Budgeting

Once budgeting has been accorded strategic case planning and management status a number of ancillary benefits will emerge that will add considerable value to the litigation management process. These are;
• Improved communications. Budgeting requires the litigation manager and external WC insurance defense attorney to participate in an informed exchange of information.
• The role of each of the parties in the litigation management process is clearly articulated. This is especially important in WC insurance defense where the insurer has the right to manage the case. A budgeting dialogue provides the claims/litigation manager with the opportunity to articulate their role in case management in a professional manner. They aren’t relegated to complaining about a course of action or fee for services rendered after the fact. They’re a representative stakeholder in the case planning team.
• Costing and cost - effective case management become part of the discussion at the case planning stage. Attorneys have a reputation for becoming absorbed with the legal challenge at the expense of the risk management imperative. Budgeting brings costing into focus in a risk management context.
• Deliverables with milestones are put in place. The budget puts paid to open ended bills for professional services.

The UTBMS – WC Code Set Budget Dialogue (template to the right)

Task based budgeting places an obligation on both the claims/litigation manager and WC insurance defense attorney to engage in a dialogue that has a strategic focus. The following questions should form the basis of that dialogue.

- What is the cost relative to the benefit of pursuing a particular course of action?
- What is the most cost effective case strategy to pursue?
- Where and at what point should resources be allocated to ensure cost effective execution of the case plan?

Billing

The legal bill is the principal interface mechanism between the law firm, the client and, in insurance defense, the insurer. It functions as the core support mechanism for the relationship. This is where the WC claims/litigation manager, gets feedback from the WC insurance defense attorney on what was done, by whom and at what cost. It is the point in the service process at which the law firm is holding itself out to be accountable to the client.

- Legal bills need to be drafted with considerable care and attention to the client needs. They should provide the client with an up to date rendition of what has been accomplished.

The thrust of the bill should be a report on results and the value derived therein, that the WC claims/litigation manager understands and will want to pay.

The UTBMS – WC Code Set provides WC insurance defense attorneys with a communications platform that facilitates bill approval and payment.

Task Based Billing

- Task based billing is neither a rote action nor a science. It’s a communications tool. Listing a task code isn’t communicating with the client. It’s merely indicating to the client that you’ve done a work in a designated phase.
• The WC insurance defense attorney is the communicator of first instance and the claims/litigation manager is the recipient. It’s the communicator’s responsibility to use words and phraseology that is familiar to the client recipient. How does the WC insurance defense attorney key into the format that the claims/litigation manager is most comfortable with? Look to the billing guidelines for direction.

• The bill is the substance of the communication.

• Task codes are the uniform language for communication. They provide the communicator with a mechanism to articulate what they’ve accomplished in a format that is easily understandable by the recipient.

• A task code by itself isn’t a communiqué. Its purpose, although important, is to merely correctly identify a topic that is of mutual concern to both parties. Once the task code identifies the topic the bill itself is only as valid as the level of articulation that the insurance defense attorney attaches to it. The Commentary & Practice Tips that accompany each code provide the foundation for an informed communiqué.

Example

WC 110 contains a listing of eight possible tasks associated with fact investigation in the initial assessment phase of the case. Rather than having to read a rambling paragraph to understand what phase of litigation the WC insurance defense attorney is working on the litigation manager’s attention is focused on a logical series of associated tasks from the get go. However, its incumbent on the WC insurance defense attorney to take the next step and articulate the task by selecting one or a combination of the eight tasks and build them into a succinct narrative.

Task Coding Principles

A task code is intended to identify the nature and extent of tasks and activities that are billable. Prior to assigning a code to a task or activity use the code set as the first line of internal review to determine whether this is a billable function. The definition of the task code is an excellent starting point.

Once the appropriate task code is selected the insurance defense attorney needs to refer to the Commentary & Practice Tips and the insurer’s guidelines for direction on how to provide an explanation of why this task was performed and what the deliverable is to the client.

Example

WC 120 is the analysis/strategy task. The five bullet points listed in this task code along with the Commentary & Practice Tips indicate when the analysis and strategizing a WC insurance defense attorney undertakes is billable to the client. The insurer’s litigation guidelines will provide the WC insurance defense attorney with direction on the framework and format for reporting the deliverable associated with that task to the client.

A task code on its own is merely an identification and indicator of billable work. It’s not a function to be assigned to a billings clerk to document the full extent of the billable work done other than for the most routine of tasks.

Every task code should be articulated by the attorney who performed it to the extent necessary to clearly communicate what was done to a claims/litigation manager and bill reviewer as justification for the bill amount assigned to it.

Prior to inserting a task code summary and amount into a bill the attorney responsible should be confident that it:

• conforms to the uniform task code description,
However, it is well short of critical information about a definable product by way of a report on deliverables and milestones reached that functions as a results report. The bill reviewer is put in the position of having to fit together pieces of a puzzle in an effort to get a clear picture of what, if any, results have been achieved. Not surprisingly, bill review becomes a negative exercise as the bill reviewer begins a review of a “fee for services rendered” invoice. Rather than participating in a meaningful dialogue about the strategic value of ascertainable deliverables and identifiable milestones achieved to date, the bill reviewer is required to assume the role of investigator and initiate requests for clarification of some items and a refusal to pay for others that aren’t commensurate with a guesstimated result.

Legal bills need to be drafted with considerable care and attention to the client needs. They should provide the claims/litigation manager and/or bill reviewer with an up to date rendition of what has been performed in conformance with “core competencies” was the task assigned to the most cost effective service provider?

**UTBMS – WC Code Set Commentary & Practice Tips**  
**Responding to Process, Product, Price, & Provider Imperatives**

- **Process:** The UTBMS – WC Code Set is process driven. A WC case is contained within an architecture that conforms to a logical process.
- **Product:** A task is a product. A listing of task codes along with a commentary is a deliverable WC insurance defense product that the client can assess and analyze.
- **Price:** The bill reviewer is able to cost a deliverable by aggregating a series of uniform tasks and develop analytics that facilitate uniform value comparators.
- **Provider:** Each and every task can be linked to a specific provider to determine whether it was performed in conformance with “core competencies”; was the task assigned to the most cost effective service provider?

**The Bill Review Framework - WC Litigation Guidelines**

- **Bill review** also requires ground rules and a formatting framework.
- **The law firm needs** know what is to be communicated and in what format.
- **WC Litigation/ Bill Guidelines** are the tools that respond to these practice management needs.

The law firm needs to be presented with Bill Guidelines and Billing Procedures that accomplish two objectives:

- They must clearly articulate the guiding philosophy and terms of reference for the relationship between the parties.
- They must stipulate fee and expense parameters as well as invoicing format specifications.

If the insurer wants a bill they can understand before they will pay it than they owe it to the law firm to tell them ground rules for communication and content formatting are.

**Example**

**UTBMS – WC Code Set**  
**Adaptation**  
**Defense Research Institute (DRI)**  
**Recommended Case Handling Guidelines For Insurers**

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**General Purpose**

Insurer expects to work with the Firm and the insured to achieve the best result for the insured in an efficient and cost-conscious manner consistent with the Firm’s ethical obligations. Nothing contained herein is intended to nor shall restrict Counsel’s independent exercise of professional judgment in rendering legal services for the Insured or otherwise interfere with any ethical directive governing the conduct of counsel.

**Bill Review**

Insurer reserves the right without limitation to review all bills, analyze and evaluate tasks, aggregate data there from for purposes of developing WC insurance defense litigation management analytics and conduct audits of panel firms pursuant to its duty to ensure cost effective claims resolution in a manner that is consistent with the defense attorney’s ethical obligations, and in a manner that will not compromise the attorney-client or work product protection governing the conduct of counsel. Counsel agrees to comply with all reasonable requests for information and documents, provided that such documents or information are not privileged or intended by the insured to be confidential. In such instance, the insurer must obtain the consent of the insured. Insurer fully reserves all rights to decline to pay or to seek reductions and/or refunds with respect to charges for tasks that do not conform to the that fail to comply with the UTBMS – WC Code Set and the requirements set forth herein, and which are not fully explained or documented by the firm after reasonable inquiry.

**Bill Guidelines Lay Out the Rules**

Ground rules alone are not sufficient for WC insurance defense claims management by a claims manager with a portfolio of cases to manage. Bill guidelines ensure that service performed and invoiced adhere to prescribed rules. Workers Compensation adheres to a prescribed form of litigation. Bill guideline lay out specifications for utilization of service providers and expense allocations. It is important not to lose sight of the fact that these are “guidelines” and not directives. Properly drafted bill guidelines should not interfere with the right and responsibility of the lawyer to exercise his or her professional judgment. The following is a list of items that one would typically find in a comprehensive set of Billing Guidelines:

- List of acceptable Fees
- Rate guidelines
- Travel expense parameters.
- Staffing recommendations i.e. designation of lead lawyer, rotation restrictions among lawyers, team approach.
- Use of Paralegals
- Referring of work to lowest level where competency resides
- Legal research limits

**Policies and Procedures**

Every set of rules and guidelines should consist of a balance of policies and procedures.

- A policy is a predetermined course of action established as an indicator of business goals and objectives. For example and insurer might well have a policy wanting all invoices to be submitted electronically in UTBMS task codes.
- A procedure is a method by which a policy can be accomplished.
Extending the electronic billing policy into a procedure would be to direct all WC insurance defense firms to submit UTBMS- WC task coded invoices in a LEDES format. There is now a link between a policy and procedure. There is an inherent logic in requiring this match. It means that there is a minimum risk of a procedure being implemented that isn’t connected to insurer claims management policy. Policies that have been promulgated by the type of stakeholder group outlined above are more likely than not to be cognizant of and in harmony with the ethical rules and professional practice requirements of the legal profession.

**Billing Format Example**

A. **Heading**

The first page of the bill must state: (a) the firm’s IRS number; (b) the caption of the case; (c) the name of the insured; and (d) the claim number.

B. **Body**

The bill must be prepared with daily entries showing: (a) the date the work was performed; (b) the initials of the person providing the service; (c) a description of the work performed (single activities); and (d) the actual time in tenths of an hour.

C. **End of Bill Summary**

The bill must include: (a) the full name of each attorney/paralegal; (b) the status of each timekeeper (i.e., partner, associate, paralegal); (c) the hourly rate of each timekeeper; and (d) the total hours and total amount charged for each timekeeper during the billing period.

D. **Task Codes**

Every billable item must be associated with a UTBMS – WC Code Set and conform to the Commentary & Practice Tips specifics of that task code.