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June 27, 2006

Thomas J. Kuzma  
Deputy Chief Counsel  
Workers' Compensation Division  
1171 South Cameron Street  
Harrisburg, PA 17104

**RE: Proposed Regulation by Department of Labor and Industry, amending  
34 PA Code Chapter 127 (relating to Medical Cost Containment), published  
June 10, 2006.**

Dear Attorney Kuzma:

We write to you today expressing concerns with some of the language found in the above mentioned proposed regulation. As you may know, this proposal makes numerous editorial changes to the regulation to provide and clarify requirements and procedures for reimbursement and review of medical treatment for work-related injuries under the Workers' Compensation Act. We would appreciate if you could convey, on behalf of Committee, our concerns.

Specifically, we have two concerns:

**1. Section 127.3 Definitions**

Contained within the definitions section (Section 127.3) of Chapter 27, the Department references "agency related to health care services."

In workers' compensation systems across the country, and within the Pennsylvania market, there are entities that perform a valuable, cost-containment service on behalf of providers, including third party administrators, bill review companies and billing entities. Would such entities be included in the definition of "health care provider" as "an agency related to health care services?"

If it is not clear from the plain meaning of the definition of "health care provider," we would ask that the proposed regulation be amended to clearly include these entities. For example, the definition could be amended by inserting the phrase "or an agent the health care provider has contracted with or utilizes for the purpose of fulfilling the health care providers' obligations related to health care services and billing" after the phrase "scope of employment."

**2. Section 127.132 Payments for prescription drugs and pharmaceuticals – direct payment**

Subsection (b) of the amended Section 127.132 provides that "[w]hen agreements are reached under subsection (a), insurers shall promptly notify injured employees of the names and locations of pharmacists who have agreed to directly bill and accept payment from the insurer for prescription drugs. However, insurers may not require employees to fill prescriptions at the designated pharmacies, **except as provided in Subchapter D (relating to employer list of designated providers).**"

We are concerned that the amended section might create a situation where the injured worker is precluded from accessing a provider from whom they received care for a substantial period of time, perhaps prior to the injury. For example, an injured worker has had a claim for 3 months and has been going to his/her local corner pharmacy. In the fourth month the employer selects a list of "designated providers" and the local corner pharmacy is not on the list. We are concerned that the injured worker will no longer have access to this local corner pharmacy.

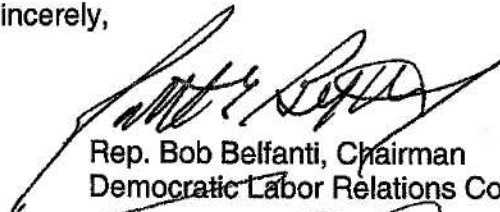
Also, we are not sure what recourse the local pharmacist has if he/she dispenses to an injured employee who, unbeknownst to him/her, is subject to a "list" that does not include the pharmacy. Would the carrier deny payment to a provider if the provider is not on the injured employee's "list?"

Thank you for your consideration of these comments.

Sincerely,



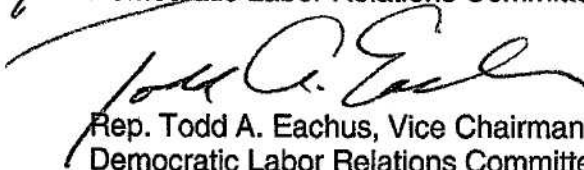
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