



West Penn IME
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Eileen K. Wunsch, MS, CPIW, ARM
Health Care Services Review Division
BWC, Dept. of Labor & Industry
PO Box 15121
Harrisburg, PA 17105-5121

Tuesday, June 20, 2006

Re: Proposed Rulemaking 34 PA Code Chapter 127, Subchapter E

Labor & Industry
BWC

JUL 05 2006

Health Care Services Review
Chief's Office

Dear Eileen:

As you are aware, the proposed rulemaking for 34 PA Code Chapter 127, Subchapter E has been published in the PA Bulletin. I would like to take this opportunity on behalf of West Penn IME, Inc., to opine on the proposed regulations as solicited by the publication.

Foremost, none of the opinions which follow will have any impact on West Penn IME, Inc, if we are not part of the UR process once these new regulations are effected. Therefore, the transition from the current system to the proposed is our primary concern. We want assurances that any contractual or bidding process does not favor companies based on their political affiliation, physical size, or ability to provide a loss-leading product or campaign contribution. We are a small company as you know; however, we have maintained a high level of regulatory compliance for 12 years at a competitive price. We want the proposed rulemaking to reflect that previous excellence will not be ignored.

1.a) We would like to see a provision which establishes a 6 month period (3 months to develop the necessary documents and procedures followed by 3 months of actual implementation) during which currently authorized UROs will operate under the new regulations before bidding on a contract. I think it is critical for us to know the complexity of the new system before bidding on it. I know from my experience with the original implementation of chapter 127, that even for the policymakers at the BWC, it was an evolving work in progress. I expect this time to be no different.

1.b) Rather than deferring to the procurement code, we would prefer specific language regarding the contractual arrangements as part of the proposed regulations. We would like to see a provision which states that any request for a contract/bid be published and available for 12 months before bids are due. We would like to see rules for appealing a denied bid, including adjudication or arbitration.

1.c) We would like to alter the provision regarding grandfathering of current UROs. We propose a clause that grants continued authorization to currently authorized UROs until the expiration of the URO with the latest expiration date. At that time all UROs would have to bid for a pre-determined number of contracts (suggested at ten to fourteen based on current levels) or continue operation under automatic 6 month extensions until a request for a bid is due according to 1.b. This would ensure that all UROs are bidding for the same thing at the same time and that there is no interruption in assignments for those UROs awarded contracts. The minimum number of bids would ensure that there are sufficient companies to handle the capacity, while maintaining a diverse field of companies throughout the Commonwealth. Also, a maximum number of contracts would enable pricing to be accurately based on volume. This min/max provision would apply to the initial contract only.

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1.d) Once a contract is awarded, assignments will be issued randomly, exception to follow. The BWC will have the authority to reward excellence by assigning up to a predetermined percentage (such as 15%) of UR Requests to the URO(s) of their choice.

The following inclusions and/or omissions are of note.

2) Per proposal to 127.860 it seems that the Medicare rate for copying costs is being eliminated, and the costs are the responsibility of the URO. We propose that the Insurer shall pay for copying costs at a predetermined rate (which is suggested to be significantly less than the popularly charged Act 26 rate).

3) While we are not opposed to, in principal, the idea of expediting the reviewer time-frame, we do express concern that this may make reviewers harder to enlist and may drive up costs. Also, there is concern that tightening the time-frame to submit records will adversely effect the outcome of these reviews for the employee (no - records - no decisions will likely increase). A suggestion would be to allow the URO to wait up to 30 days for records from the provider under review, while requiring that ancillary record providers submit records within ten days (or some other pre-determined time period). The URO could assign a reviewer upon receipt of records from the provider under review or within ten days, whichever comes last.

4) We wish there were a mechanism by which the URO could alert the requesting party to possible problems with the UR Request as filed, and to have a remedy (even if that remedy is as limited as to advise a withdrawal) available. This could save considerable time and expense processing requests which result in a determination of little or no value.

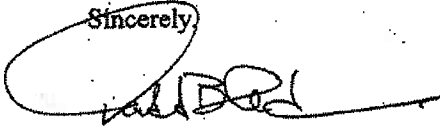
5) Based on the idea that UROs will contract with the Commonwealth, it seems as if the BWC is planning to make payments to the URO, and to bill the same from the insurer. If this is the case, this concept should be abandoned. I can think of no worse a waste of taxpayer dollars than to have the BWC acting as both a bank and collection agent in this process.

6) A solution to review multi-discipline practices is challenging considering the statute requiring a peer-to-peer review. However, it might be feasible to file a single review on one group as follows. The URO would be required to determine how many different types of providers are actually providing treatment. The URO would construct one report with identical demographic information, introduction, records inventory, medical history, and employee statement sections. The, the URO would assign the review to as many appropriate peers (reviewers) as necessary to comment on all treatment requested to be reviewed. These reviewers would consult with one another as well as each provider under review. Then each reviewer would author their own section of the review addressing only the treatment for which they are an appropriate peer. Each reviewer would sign his/her section. Result: one report (consisting of demographic information, introduction, records inventory, medical history, employee statement), more than one determination (teleconference section, discussion, references, signature), and one consolidated/coordinated reasonable and necessary section.

Otherwise, we feel that the remainder of the proposed rules and regulations will be a marked improvement over the current ones. We hope that the BWC is open to these suggestions and that an improved set will ultimately be enacted. We look forward to discussion of these and other topics at the public meeting in July.

Re: Proposed Rulemaking 34 PA Code Chapter 127, Subchapter E

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Blend", with a large, sweeping flourish extending to the right.

David S. Blend
President
URO Administrator
West Penn I.M.E., Inc.

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