

Regarding the Proposed Rulemaking of the Medical Cost Containment Section of Act 44/57 of the Pennsylvania Workers' Compensation Act as published in the June 10, 2006 issue of the Pennsylvania Bulletin

These comments/questions are relative to the Medical Treatment Review/URO/PRO and List of Designated Providers portion of the changes proposed.

Subchapter D. Employer list of Designated Providers 127.752. The Department further proposes amending this section to prohibit employers from requiring employees to schedule appointments through a single point of contact.

- ❖ **Does this suggest that a centralized scheduling # can not be utilized on the employer panel for providers who have multiple sites?**
- ❖ **Also does this suggest that a company can not assist the injured employee with scheduling his/her appointment once they chose same from the listing?**

Section 127.803 – states with new proposed language that the Bureau will assign requests for UR to authorized URO's.

- ❖ **Does this mean the assignments will no longer be “random assignments” as previously written? Does this mean some URO's will get more assignments than others?**

Section 127.806 - Again, states that the Bureau will assign the UR to an authorized URO.

- ❖ **Does this change the way they URO's are assigned as stated previously they were of “random assignment”**

Section 127-807 relating to requests for UR reassignment –

- ❖ **How will this work and how does it differ from the current process?**

Section 127.811 relating to UR of “entire course of treatment”- The Department writes that “any inconsistencies between reviewers will be resolved through consultation of the involved reviewers”.

- ❖ **Who determines when an “inconsistency” presents between reviewers?**
- ❖ **Could/would it appear that a consultation of “involved reviewers” could be viewed as influencing another’s opinion.**
- ❖ **How can an independent opinion be assured?**

Section 127.821 relating to “pre certification”,

- ❖ **When requesting to permit “pre certification” is the Bureau requiring that a URO pre-approve treatment and/or a procedure?**
- ❖ **Would this be viewed as an approval of payment?**
- ❖ **Would this be considered as a URO addressing items which is not permitted by a URO under the Act?**

Section 127.851 relating to requesting & providing medical records: The proposed time is 15 days for a UR Request and 7 days for a Recertification/re-determination for the Provider to forward records.

- ❖ **How will this impact the extra time needed when a UR Request has the incorrect contact information (name, address and phone number) listed for the Provider Under Review on the Notice of Assignment. This currently decreases our timeline which could present a larger problem with the shortened collection period.**

Section 127.852 relating to scope of review of URO: URO’s shall decide the extent to which treatment subject to

- ❖ **Will this remain reasonable and necessary and “into the future”.**
- ❖ **What if the Bureau does not agree with the URO’s determination?**
- ❖ **Will there be guideline to follow or left up for interpretation?**

Section 127.856 states that the insurer may submit “peer-reviewed, independently funded studies and articles and reliable medical literature which are relevant to the reasonableness and necessity of the treatment under review to the URO”.

- ❖ **Does The Department intend that a URO pass on all submissions of studies submitted by the insurer to a Reviewer if the studies are questionable?**
- ❖ **Does the author of the article need to be of like license and specialty of the Provider under Review?**
- ❖ **Does this apply only to insurers or does an injured employee have the opportunity to submit his/her article/studies for the same purpose?**

Section 127.861 requires the URO to issue a Determination that treatment is unreasonable and unnecessary if the Provider under Review does not submit records within 15 days.

- ❖ **Is there no provision with this change for the URO to proceed with a review if the employee submits an Employee Statement?**
- ❖ **We were advised up to this point to proceed with a review if no medical records were received but we receive an Employee Statement. Is this to be changed?**
- ❖ **Will the employee have opportunity under this provision to submit a statement?**

Section 127.862 relating to requests for UR deadline for UR Determination. Proposed rules state that a “request for UR shall be deemed complete upon the URO’s receipt of the medical records or 18 days from the date of notice of the assignment, whichever is earlier” As proposed, the deadline for completion of the UR Determination can fall within the timeline that the Provider Under Review has to timely submit records.

- ❖ **The decreased timeframe to render a Determination (20 days for a UR request and 10 days for a recertification or re-determination) would not appear to give the Reviewer adequate time to contact the PUR if requested and then adequately review the material, research, and to research guidelines for treatment. Additionally, the time period would not allow for adequate resolution of**

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inconsistencies between reviewers and may encounter us to lose reviewers that are unable to complete same within this new time frame.

Section 127.864 defines the time frame “not to exceed 180 days”

- ❖ **Is this meant that a URO “shall decide the extent to which treatment subject to concurrent or prospective review will remain reasonable and necessary” from the beginning date and anywhere from a specific date within that time period not to exceed past 180 days?**

Section 127.1051 relating to the authorization of URO's/PRO's. The Proposed Rulemaking states that the RFP “issued by the Bureau will set forth the specific minimum requirements that an offeror’s proposal must address”. It also states that “The Bureau is not required to award a contract to every offeror that submits a proposal that meets the minimum requirements offered by the RFP”.

- ❖ **Does this indicate that the Bureau will arbitrarily and selectively eliminate qualified URO’s from being “awarded a contract” or be “authorized” to perform Utilization Reviews?**
- ❖ **After further review, it would appear that The Bureau of Procurement is “responsible for purchasing or contracting for equipment and supplies for the Commonwealth. The Bureau is a purchasing coordinator and exercises control over acquisitions of supplies, services, and awards contracts to suppliers.” Under Part 1-“Chapter 4-Contract Use, Need and Authorization” of Pa C. S. 62 Procurement Code, it is clearly defined when contracts may be used and what satisfies the need for a Commonwealth contract. Under Parts A and B of Chapter 4, it appears that the Department does not meet the “Need, Use, and Authorization” conditions to authorize URO’s under the “Act”.**
- ❖ **If the Department’s intent is to “authorize” URO’s/PRO’s by means of an awarded “contract” via RFP, it appears that the Bureau/Department is acting as a “purchasing agent” for insurers/employers (see Part 1 “Policy Guidelines” for Act 57 of the Commonwealth Procurement Code 62-Section 101). This would mean that the Department/Bureau intends to pay for Utilization Reviews on**

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behalf of insurers, despite the “Act” stating specifically in Section 306 (f.1)(6) iii, “The employer or insurer shall pay the cost of the Utilization Review”.

- ❖ **Is it the Bureau’s intent to begin paying for Utilization Reviews on behalf of private insurers/employers?**
- ❖ **If the Bureau/Department intends to issue an RFP, what would be the reason and what would be the criteria for the Bureau to eliminate and not award contracts to URO’s that are qualified and meet the minimum requirements?**
- ❖ **Will fixed pricing for Utilization Reviews be set under this RFP proposal?**

Gelnett, Wanda B.

From: LI, BWC-Administrative Division [RA-LI-BWC-Administra@state.pa.us]
Sent: Wednesday, July 05, 2006 8:33 AM
To: Wunsch, Eileen; Kupchinsky, John; Kuzma, Thomas J. (GC-LI); Howell, Thomas P. (GC-LI)
Subject: Comments on the Regs. from Karla
Importance: High

-----Original Message-----

From: Patti Ott [mailto:POTT@FirstMCO.com]
Sent: Monday, July 03, 2006 12:58 PM
To: ra-li-bwc-administra@state.pa.us
Cc: uropa; Patti Ott
Subject: Published Proposed Medical Cost Containment Regulations
Importance: High

Hello Eileen

Please accept the attached comments/questions on behalf of First Managed Care Option's URO Department.

The staff of First MCO will be attending both the 7/10/06 and 7/11/06 public meetings regarding the proposed changes.

Have a great holiday!
Patti

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7/12/2006