

Alico Services, Ltd.

Authorized UR & PR Organization

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July 6, 2006

Bureau Of Workers' Compensation
Medical Treatment Review Section
PO Box 15121
Harrisburg, PA 17105-5121

Please consider the following comments regarding the recently published proposed medical cost containment regulations. I, Catherine Leonardo, president of Alico Services, Ltd., plan on attending the July 13th public comment meeting in Pittsburgh and would like issues in this letter addressed.

Overall, I believe that the proposed regulations would greatly increase the business that is currently experienced by the Utilization Review Organizations, however; I do not believe that it would be to the end effect of making UR a more "competitive" environment. The time and cost to process a review will not necessarily go down based on volume, as was seen first hand when the Bureau had eliminated over half of the UR companies in 2002 – 2003. Costs effectively remained the same, and even increased, as does everything, according to inflation. Although contracts with certain reviewers for higher volume may result in the decrease in reviewers' fees, it would increase the possibility of bias and diminish the reviewer pool, resulting in literally one or two reviewers, of any given specialty, conducting all the UR in Pennsylvania. This seems to drastically go against the initial intention of the system.

I also feel that the proposed regulations are heavily weighted against the injured worker and Health Care Providers' of the workers' compensation system. Again, going against the original intent of the system and the ongoing verbal comments by the Bureau that the injured worker is the priority of this system.

I do not feel that the proposed regulations should be implemented in their current form for the specific following reasons:

127.803 / 127.806 Relating to Assignment of UR Requests

There is no indication of how the Bureau will assign reviews in keeping with the unbiased nature that the system was initialed intended to have. The current regulations call for random assignment. By randomly assigning cases, the opportunity for financial

and/or political incentive bias is greatly diminished. By removing the “random” the injured workers’ treatment issues may well become nothing more than a pawn in any one person’s career climb. Similarly, **127.1051 which notes that the Bureau would not be required to award a contract to any company regardless of the merit of the application.** Would only one person then be in charge of awarding the contracts of UR for the entire state of Pennsylvania? That’s nearly 5,000 reviews a year that may, according to this proposed regulation, be awarded to just one company, with no clear determining factors of why any particular company would get the contract over another. At the current price average per review, one company would stand to gross over 3 million a year. The opportunity for financial and/or political incentive bias becomes clear and again, the main objective, protecting the injured worker, is lost in the shuffle of paperwork and bank deposit slips.

127.811 Relating to UR of Entire Course of Treatment

This is a bit confusing, but it appears that this regulation would allow for a multi-systemic review. An “all in one” type deal where reviewers of various licenses and specialties conduct individual reviews and then, if there are inconsistent outcomes between these reviews, the reviewers would resolve those inconsistencies through consultation. Again, this allows for undue bias and obvious influence for outcome based reports. The current regulations are clear regarding undue influence over a reviewers’ opinion. This regulation allows for one reviewer of a different license and specialty to attempt to influence another reviewers’ opinion about treatment he/she may know nothing about. Additionally, with the proposal of **127.862 relating to deadlines for a determination,** the reality of these two proposals working together is dim.

127.821 / 127.822 / 127.823 / 127.824 Relating to Pre-certification

These proposed regulations would appear to limit Health Care Providers from properly treating their patients pending an approval, which as printed in these proposals, does not contain a specific time frame for an answer to the pre-certification. What kind of time frame does the insurer have to respond to this request? What would happen if the insurer does not respond to the request for preauthorization? In this pre-certification process, who determines if the proposed treatment is reasonable and necessary? Can an insurer then file a UR on treatment that has been pre-certified? The whole proposed system for pre-certification seems to mimic what is currently in place in the general healthcare system outside the workers’ compensation field. To my understanding, this type of system has proven itself to be costly and time consuming, to the effect that it’s just not worth it. Health Care Providers would be prohibited from relying on their education, protocols and their oaths to provide immediate services that may be necessary to the general health and well being of the injured worker.

127.833 / 127.841 / 127.842 Re-certifications and Re-determinations

While the pre-certifications and re-determination processes would naturally create more UR work, it is unclear how a re-determination will coincide with the petition process

outlined in **127.901 through 127.906**. It seems that often the petition process is lengthy, as many times hearings are rescheduled. Is it possible to have a petition in process and a re-determination UR happening at the same time? Additionally, the re-certification process appears to mimic the reconsideration process that was contained in the original regulations which was later removed. At one point in the recent past of the current UR system, companies were assigned all the cases related to a single patient - this method seemed to be effective to the extent of reducing the number of requests for records and the costs of obtaining and reproducing these records as the UR company was considered the keeper of the record. Somewhere along the line this was interpreted as a conflict under the current regulations and a single UR company could not perform a review on the same patient, same provider – it also went against the “random” assignment notion. While I do believe random assignment is still optimal to obtain fair and unbiased reviews, the ability to assign a case to the same UR company when the same patient and provider are under review would seem to be cost effective, however, the re-determination process and re-certification process outlined could effectively more than triple the case load on each workers’ compensation patient. By assigning re-determinations and re-certifications to the same company, and utilizing the same reviewer, the “second opinion” (different company /different reviewer) is diminished therefore creating a bias situation.

127.851 Relating to Providing Medical Records

Currently, approximately one of every twenty reviews are no records determinations. By shortening the time line for submission of records, this number would definitely increase. Relying on the USPS for delivery of mail within 3-5 days is standard, however, approximately one out of every five requests that are mailed, are then faxed to the providers, when during our currently required telephone contact “reminders” it is noted that the office never received the request, the address was incorrectly listed, the phone number was incorrectly listed and/ or the person that handles records is on vacation. There are no new proposed regulations requiring the URO to make any attempts to contact the provider. I believe by shortening the time frame for submission and not formally proposing a regulation requiring the URO to contact the provider, there will be a great increase in the number of no records determinations. 15 days and 7 days for a reconsiderations and re-determinations places unrealistic expectations on the Health Care Providers to constantly be “on call” when they treat workers’ compensation patients, or hire additional office personnel to be specifically trained in the UR process to ensure that all deadlines are met. This will deter Health Care Providers from being involved in the system. Also, there is no notation of utilizing certified mailings, this will most definitely decrease the cost of conducting UR if in fact the current regulation would be rescinded.

127.857 Relating to Insurer Submission of Studies

The proposal is clearly bias as the Employee and Health Care Providers are not permitted to submit additional information in favor of the treatment in question. Additionally, should reviewers choose, they could merely utilize the study as the sole basis for denying treatment which also creates undue bias. Without affording all parties the same opportunity, this proposed regulation is heavily weighted against the injured worker.

Additionally, there does not appear to be any regulation regarding Health Care Providers input, such as the currently required notification to the PUR of his/her right to speak with the reviewing physician regarding the patient's treatment.

127.861 Relating to Provider Under Review's Failure to Supply Medical Records

The phrase "without reasonable cause or excuse" is encouraging in this proposal, however, this proposal demonstrates the overall effect of nearly all the proposed regulations which simply losses sight of the injured worker and their treatment. PROHIBITING a Health Care Provider from introducing evidence in a judicial proceeding seems to go against our basic justice system- not allowing an American Citizen to fully present their case before the court. As in the basic judicial system, protocols of gathering evidence must be followed and only a judge, has the authority to suppress evidence. This is basically presented in **127.906 relating to petition for review by bureau – hearing and evidence** "the workers' compensation judge may disregard evidence submitted by providers who failed to respond to the URO's request for records in the same matter."

127.862 Relating to Requests for UR—Deadlines for URO Determinations

The time frames proposed in this regulation are inconsistent with proposal **127.851**. If a URO has 5 days to request records and the PUR has 15 days from the postmark of the request to submit records, a minimum of 20 days will be necessary not including general mailing time allowances for records which is currently 3 days without a postmark. With a valid postmark, records must be accepted at any time. Reducing the overall time frame for the completion of a UR from 65 days to 38 days will be difficult for all parties involved in the process. Although the 20-day time frame for rendering determinations may be viable. Overall, the time frames appear unrealistic.

These comments have been made, and questions proposed from the standpoint of an owner of a Utilization Review Organization. I am not a Health Care Provider or an attorney and I have never been an injured worker, however; I have personally processed over 1,200 utilization reviews in nearly a decade of service in this industry. I firmly believe that if the proposed regulations, as presented, are implemented, it will be a great disservice to the injured worker, will deter Health Care Providers from treating worker's compensation patients, and will NOT result in a competitive UR environment, but rather a heavily weighted, bias and unjust system which will have lost sight of a primary focus of the Department of Labor & Industry for this Commonwealth, the injured worker.

Sincerely,

Catherine A Leonardo
President Alico Services, Ltd.

ORIGINAL: 2542

Gelnett, Wanda B.

From: LI, BWC-Administrative Division [RA-LI-BWC-Administra@state.pa.us]
Sent: Friday, July 07, 2006 7:59 AM
To: Wunsch, Eileen; Kupchinsky, John; Kuzma, Thomas J. (GC-LI); Howell, Thomas P. (GC-LI)
Subject: Comments on Regs. from Karla

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

From: Catherine Leonardo [<mailto:alico.uro@verizon.net>]
Sent: Thursday, July 06, 2006 1:17 PM
To: RA-LI-BWC-Administra@state.pa.us
Subject: Comments on Proposed Medical Cost containment Regulations

As requested, please accept and review these comments submitted July 6th. 7 calendar days prior to the July 13th meeting I plan on attending.

Thank you.

Please feel free to call with any questions.

Sincerely,

Alico Services, Ltd.
By: Catherine Leonardo/ President

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