

The Use of Preferred Provider Organizations and other Unapproved Managed Care Health Systems in Workers' Compensation Claims

BULLETIN 99-3

TO: All Property and Casualty Carriers
Writing Workers' Compensation Coverage

FROM: George Nichols III, Commissioner

RE: The Use of Preferred Provider Organizations and other Unapproved Managed Care Health Systems in Workers' Compensation Claims

DATE: November 5, 1999

The Department of Workers' Claims Commissioner, Walt Turner, recently released a policy statement regarding the use of Preferred Provider Organization ["PPO"] networks for workers' compensation claims. The May 14, 1999 policy statement was released after the Department of Workers' Claims received complaints from a number of injured workers regarding the directing or steering of an employee to select health care providers who are members of a PPO network. The Department of Workers' Claims did not approve the PPO networks as a workers' compensation managed health care plan, per 803 KAR 25:110.

All managed care health system networks must be approved by the Commissioner of the Department of Workers' Claims (see KRS 342.035 (6), and 803 KAR 25:110). If the employer has not designated an approved managed care health system, an employee may select his or her own provider to treat the injury or occupational disease (see KRS 342.020 (1)). KRS Chapter 342, the workers' compensation code, currently makes no provision for PPO's.

Some of the unapproved PPO's have contracted with providers for services at rates discounted from those established in the official Workers' Compensation Physician's Fee Schedule promulgated pursuant to KRS 342.035 (1) and 803 KAR 25:089.

Commissioner Turner's policy statement has generated a number of inquiries from the insurance industry, as well as employers. After the Department of Workers' Claims and the Department of Insurance held several meetings with the interested parties, it became clear that the Department of Workers' Claims' policy position will not allow insurance companies or employers to direct injured workers to a network of providers that has not been pre-approved as a managed care health plan, nor to receive scheduled rating credits or discounts for the use of an unapproved network in the instance of policy rating.

Commissioner Turner stated on September 20, 1999 that his position had not changed as a result of these meetings, and that the use of PPO's will not be allowed. With the exception of utilization review or medical bill processing, an insurance company's use of any process regarding the injured worker's actual care, or his selection or choice of providers will constitute violations of the workers' compensation code, KRS Chapter 342, and will subject the company to civil penalties. Questions regarding these parameters should be directed to the Department of Workers' Claims.

Enclosed with this Bulletin is a copy of the May 1999 memorandum distributed by Walt Turner, Commissioner of the Department of Workers' Claims. Questions regarding the approval of workers' compensation managed health care plans should be directed to Andrea Southworth at 502-564-0905.

Questions regarding this Bulletin from the Department of Insurance may be directed to Lawrence W. Cook, Counsel for the Department, at (502)-564-6032.