

LETTER OPINION
94-L-24

January 31, 1994

Diane Alm, Executive Director
North Dakota Workers Compensation Bureau
500 E Front Avenue
Bismarck, ND 58504

Dear Ms. Alm:

Thank you for your December 9, 1993, letter regarding the construction of N.D.C.C. §§ 65-02-19, 65-02-20, and 65-02-21 as they relate to the requirements and duties of third-party administrators.

Information submitted by the Bureau indicates that the Bureau presently contracts with two third-party medical administrators, Health Care Cost Control, Inc. (HCCC) and UHC Management Company, Inc. (Healthmarc), to provide various administrative services to the Bureau.

The contract with Healthmarc states that it is for the purpose of providing "utilization review services" in both in-patient and ambulatory cases. The contract provides that Healthmarc "will develop and apply standards of medical necessity and efficiency which reflect patterns of care found in established managed care environments." "Utilization review" is commonly defined by the insurance industry as "a formal review of patient utilization or of the appropriateness of health care services, on a prospective, concurrent, or retrospective basis." "Utilization management" is defined as "the process of evaluating the necessity, appropriateness and efficiency of health care services. A review coordinator gathers information about the proposed hospitalization, service, or procedures from the patient and/or provider, then determines whether it meets established guidelines and criteria." The Managed Care Resource, United Healthcare Corporation, Minnetonka, MN, 1992.

The contract with HCCC states that it is for the purpose of providing "medical bill review and auditing." The contract provides that "HCCC will develop and apply standards of medical necessity and efficiency which reflect patterns of care found in established bill review environments and in compliance with the North Dakota Workers Compensation Act and Administrative Rules." The contract provides that "[m]edical bills will be reviewed and audited for: A. Errors in billing; B. Items that should have been credited; C. Duplication of Charges; D. Treatments not related to the compensable work injury; E. Laboratory tests and x-rays not related to the diagnosis; F. Services or treatments that may be unnecessary." The contract also provides that "HCCC will review complete files for issues of liability" and "will follow through on the Client's managed care organization's recommendations for length of stay on hospitalizations as well as physical therapy

services, chiropractic services and reviewable diagnostic testing." The contract further provides that HCCC "shall assist the Client in revising the fee schedule by providing technical expertise" and "will perform periodic in-hospital audits to determine compliance with billing standards and requirements."

N.D.C.C. § 65-02-19 provides in part that "[t]he bureau shall contract for the services of a third-party administrator to monitor medical treatments of injured employees and to monitor the payment of medical expenses of all workers' compensation claims."

The Bureau's contracts with Healthmarc and HCCC appear to satisfy the requirements of N.D.C.C. § 65-02-19. The contract with Healthmarc states that it is for the purpose of providing utilization review services. Utilization review is commonly defined by the insurance industry as a formal review of the necessity, appropriateness and efficiency of health care services by comparison to established guidelines and criteria. This utilization review appears to be exactly the sort of "monitor[ing] [of] medical treatment of injured employees" envisioned by section 65-02-19. In addition, the contract with HCCC provides that HCCC will review medical bills for treatments not related to the compensable work injury, laboratory tests and x-rays not related to the diagnosis and services or treatments that may be unnecessary. This review of necessity and relatedness by HCCC also serves to satisfy the statutory requirement of a third-party administrator "to monitor medical treatment of injured employees."

The Bureau's contract with HCCC also satisfies the requirement of section 65-02-19 that a third-party administrator "monitor the payment of medical expenses." HCCC's contract calls for the review of all medical bills prior to payment. Thus, the Bureau's contracts with Healthmarc and HCCC satisfy the requirements of N.D.C.C. § 65-02-19.

N.D.C.C. § 65-02-20 provides, in part:

The bureau shall establish a managed care program with a third-party administrator to effect the best medical solution for an injured employee. The managed care system must allow for a third-party administrator to direct the program for medical care of the injured employee upon a finding by the Bureau that the employee suffered a compensable injury. The managed care administrator shall operate according to guidelines adopted by the Bureau to ensure that an injured employee receives appropriate medical treatment in a cost-effective manner. The managed care administrator shall assist the Bureau in the medical management of claims within the bounds of workers' compensation law.

The Bureau's contracts with Healthmarc and HCCC, in the context of the Bureau's multifaceted managed care program, appear to satisfy the requirements of section 65-02-20. The contract with Healthmarc provides for utilization review of treatments of injured workers. Utilization review involves evaluation of the necessity, appropriateness and efficiency of health care services. The primary purpose of this review is to "effect the best medical solution for an injured employee" by ensuring that only necessary, appropriate and efficacious treatments are offered to injured workers. The medical review and audit program conducted by HCCC also helps to serve this purpose of seeking the "best medical solution" by reviewing bills for treatments that are not medically

necessary and for treatments unrelated to the purported diagnosis. Likewise, the reviews by Healthmarc and HCCC help to "ensure that an injured employee receives appropriate medical treatment in a cost-effective manner."

The managed care program as established by the Bureau contemplates that both Healthmarc and HCCC will provide the Bureau with recommendations regarding what constitutes appropriate and cost-effective medical treatment. The Bureau remains ultimately responsible for deciding what constitutes appropriate treatment. This appears to be exactly the relationship mandated by section 65-02-20, which states in part that "[t]he managed care administrator shall assist the bureau in medical management of claims." Thus, the Bureau's contracts with Healthmarc and HCCC satisfy the requirements of N.D.C.C. § 65-02-20.

N.D.C.C. § 65-02-21 merely provides that "[t]he bureau shall contract for the services of a third-party administrator to implement the managed care program." In view of the fact that the role of the managed care administrator is to "assist the bureau in the medical management of claims," the Bureau's contracts with Healthmarc and HCCC also satisfy the requirements of section 65-02-21.

Accordingly, it is my opinion that the contracts the Bureau currently has with Healthmarc and HCCC are in compliance with the third-party administrator requirements of N.D.C.C. §§ 65-02-20 and 65-02-21.

Sincerely,

Heidi Heitkamp
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