

ADVISORY NO. 420

###

TOPIC: TDI CLARIFIES HCN LEGACY CLAIMS

TDI has clarified the circumstances under which a legacy claim can be rolled into a Texas Health Care Network (HCN).

In an FAQ that should be posted to the Agency's website this week (or early next week), TDI has determined that legacy claims can be rolled into an HCN as outlined below.

The FAQ also clarifies the agency's position that an old law claim can be rolled into the network unless the employee "is subject to a settlement agreement for an injury sustained before January 1, 1991".

Q: When is a workers' compensation carrier authorized to enroll an injured employee into a certified workers' compensation health care network?

A: A workers' compensation carrier is authorized to enroll an injured employee into a certified workers' compensation healthcare network as follows:

1) If (a) an employee sustained a compensable injury before September 1, 2005, (b) the workers' compensation insurance carrier has entered into a contract to provide workers' compensation medical benefits through a certified workers' compensation healthcare network, (c) and the employee lives within the service area for a certified workers' compensation health care network, the workers' compensation carrier liable for the claim may elect to enroll the injured employee into the certified workers' compensation health care network.

In such an instance, the carrier does not need to have contracted with the employer to provide services through a certified workers' compensation health care network. However, the workers' compensation carrier is first required to give the injured employee a notice of network requirements, and the carrier must allow the injured employee an opportunity to select a network treating doctor. When the employee's claim for benefits is based on an injury that occurred before September 1, 2005, the carrier is not required to provide benefits through a certified workers' compensation healthcare network.

2) If an employee lives within the service area for a certified workers' compensation health care network, and the employee sustained a compensable

FLAHIVE, OGDEN & LATSON

injury on or after September 1, 2005 but before the date that the workers' compensation insurance carrier contracted with a certified network, the carrier may elect to provide notice of network requirements to the injured employee and move injured employee into the network for care.

3) If an employee lives within the service area for a certified workers' compensation health care network, and the employee sustained a compensable injury on or after September 1, 2005 and after the date that the workers' compensation insurance carrier contracted with a certified network, the carrier may not move the injured employee into network care unless the employer has elected network coverage.

Carriers and networks should note that some injured employees may be receiving ongoing treatment that requires a smooth transition to network providers. The Department expects that carriers and networks will realize that allowances may be necessary for the best interest of the injured employee and in order to provide continuous care in such situations.

The response to this FAQ may not apply to an employee who is subject to a settlement agreement for an injury sustained before January 1, 1991.

If you have any questions about this FAQ, please contact Bobby Stokes in our office.