



ADVISORY NO. 488

TOPIC: USE OF CLOSED PHARMACY FORMULARY FOR CERTIFIED HEALTHCARE NETWORKS FOR DATES OF INJURY PRIOR TO SEPTEMBER 1, 2011

On July 12, 2013, Texas Workers' Compensation Commissioner Rod Bordelon presided over a meeting with a number of Texas workers' compensation networks to discuss the transition of legacy claims from the open formulary to the closed formulary. Starting on September 1, 2013, the pharmacy closed formulary rules adopted by the Texas Department of Insurance, Division of Workers' Compensation, will become effective for workers' compensation claims with dates of injury prior to September 1, 2011 (Legacy Claims).

The purpose of the meeting was to discuss the challenges facing networks in making that transition from the open formulary to the closed formulary. There are approximately 50 days left in the transition period. See Rule 134.510 (transition to the use of closed formulary for claims with dates of injury prior to September 1, 2011).

The Commissioner wants to ensure that the networks are eliminating or, at the very least, minimizing, any negative impact that the change over to the closed formulary will have on injured workers. The Commissioner emphasized this same goal earlier this summer in meetings that he had with a number of the larger workers' compensation carriers.

Matt Zurek, on behalf of Division of Workers' Compensation, has overseen the transition from the open formulary to the closed formulary. He and Commissioner Bordelon had a number of tips for networks, as well as carriers. Some of them are as follows:

- 1) Following the issuance of the notification letters by the carriers to the prescribing doctor, pharmacy, and injured worker, the carrier is expected to have peer-to-peer discussions with the prescribing doctors in an attempt to reach an agreement concerning N-status drugs. Success is generally measured by the number of attempts to contact and the tone of the conversation between the network and the prescribing doctor;
- 2) When making contact with the prescribing doctor, ask to speak to either the office manager or the administrator, and then schedule a time for a peer-to-peer conference;

- 3) If the prescribing doctor refuses to cooperate, contact Matt Zurek and provide him with the contact information for that prescribing provider. The Division of Workers' Compensation is also reaching out to healthcare stakeholder groups for assistance in educating their members about this process; and
- 4) The Division of Workers' Compensation has requested that the Work Loss Data Institute (WLDI) not make any changes in the ODG on N-status drugs for the next several months.

The Division of Workers' Compensation also identified some challenges that may be encountered by the networks. The Division of Workers' Compensation has identified two specific concerns. First that the treating doctors will refuse to continue to treat injured workers. Thus, the networks need to be prepared for injured workers filing a change of treating doctor. Second, the networks need to have sufficient staff to handle the anticipated increase in the number of requests for preauthorization for N-status drugs.

We are in the very last stages of the transition from the open to the closed formulary for legacy claims. This month, the Division of Workers' Compensation is pursuing its second data call targeted at the transition from open to closed formulary. The Division of Workers' Compensation will publish the results of the networks' and the carriers' success rates in reaching agreements with doctors who have prescribed N-status drugs after September 1, 2012 and in working with prescribing doctors to move the injured workers off of N-status drugs.

If you have any questions concerning any aspect of this advisory, please contact James Sheffield (jrs@fol.com), or Bobby Stokes (rds@fol.com).