

December 11, 2014

Management Labor Advisory Committee

Dear Committee Members

RE: **LC 270 and LC 519 Clarification, Proposed Amendments:**

LC 519 “Written notice of medical treatment rights.” Last MLAC meeting the Director indicated that an injured worker’s treatment rights are clearly given on **Form 3283** which is part of Form 801 given to the worker by the employer, as well as part of Form 827 given to the worker by the provider. It was mentioned that form 3283 alerts the worker in two different places in bolded language stating they choose their medical provider and specifically states, **“Your employer cannot choose your health care provider for you.”** However, some injured workers are not being given Form 3283, nor verbally told of their treatment rights by some employers and health clinics. Further, some employers continue to require injured workers treat with the company nurse, company doctor, and/or a specific occupational medical clinic, and in some cases after mandatory drug testing has been completed by the injured worker, the worker isn’t informed they can now treat with the health care provider of their choice.

It was also mentioned that similar legislation was proposed in 2011 requiring a separate disclosure form with signature lines confirming the injured worker was verbally informed of his or her treatment rights by the employer and health care provider. The objection to this 2011 proposal was that adding yet another form would be a burden, represented redundant paper work, and would likely add additional cost to employers. We agreed and simply suggest amending the current mandatory Form 3283 adding new disclosure language (see attached) with signature lines confirming the employer and/or health care provider verbally explained to the injured worker his or her treatment rights under Oregon law.

The Director also mentioned the Division’s ability to investigate whether the injured worker received verbal confirmation of their treatment rights and the disclosure form 3283 as burdensome, since the signed form is to be given to the injured worker and retained by the employer. In response to this concern it has been suggested by the Ombudsman that the signed Form 3283 performed by the employer and health care provider simply be sent to the insurer with their Form 801 and 827. In this manner during an investigation the Division would simply request the signed Form(s) 3283 from the insurer and not the worker or employer/provider.

LC 270 Modifies treatment limits for chiropractic and naturopathic physicians within MCOs and provides attending physician status for life of the claim. It was stated since the number and/or length of treatments in this proposal are limited to the same 18 visits or 60 days, this renders gaining full attending physician status meaningless. The intent of including the language of, “...60 days or 18 visits,” was to bring consistency to the initial treatment numbers and length of care allowed prior to requiring pre-certify for more care by the MCO medical directors. Currently there is no consistency among the MCOs as per attending physician status, number of initial treatments or length of care, ability to

perform a closing examination for claim closure, and to provide findings of any permanent impairment for example:

- **Majoris** MCO initially allows 12 treatments or 30 days whichever comes first, further care must be pre-certified or approved by the medical director. Chiropractic physicians can be the attending physician for the life of the claim, provide the worker a closing examination for the purpose of claim closure and to determine any findings of permanent impairment.
- **Providence** MCO allows 20 treatments or 60 days, further care must be pre-certified via a "Treatment Extension Request" by the medical director. Chiropractic physicians can be the attending physician for the life of the claim, provide the worker a closing examination for claim closure and for the purpose of determining any findings of permanent impairment.
- **CareMark** Comp/Managed Healthcare Northwest MCO (CMC) allows an initial 18 visits or 60 days of treatment and authorization of time loss for 30 days cumulative with a DC, NP, or PA. After the initial 18 visits or 60 days, chiropractic physicians lose their attending physician status and must refer their patient to a qualified AP participating within the MCO. Chiropractic physicians can only provide a closing examination for claim closure and for the purpose of determining any findings of permanent impairment within the 18 visits/60 day time period.
- **Kaiser** On-the-Job MCO allows an initial 18 visits or 60 days of treatment and authorization of time loss for 30 days. After the initial 18 visits or 60 days, chiropractic physicians lose their attending physician status and must refer their patient to a qualified AP participating within the MCO. Chiropractic physicians are not permitted to rate impairment or close the claim.

The goal of this proposal is to provide a consistent initial 18 visits/60 days of chiropractic or naturopathic treatment prior to having to pre-certify for additional care with the MCO medical directors and allow authorization of up to 30 days of time loss. This proposal would also provide chiropractic and naturopathic physicians attending physician status for the life of the claim, the ability to provide the worker a closing examination for the purpose of claim closure, and for the purpose of determining any findings of permanent impairment.

Respectfully submitted,

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