Texas Department of Insurance
WCNetNews
a publication of the Health and Workers' Compensation Networks Division
Volume 1 Number 2 Winter 2007

Welcome

WELCOME TO THE SECOND EDITION WCNet News, published by the Texas Department of Insurance (TDI). The purpose of this publication is to provide helpful information about certified workers' compensation networks and facilitate communication between applicants, providers, interested parties and TDI.

Since the last edition of WCNet News, the Department certified 11 additional networks and many service area expansions. The result is greater coverage for workers' compensation care in the state. The textbox, *Certified Workers' Compensation Health Care Networks*, reflects the most current list of networks.

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Certified Workers' Compensation Health Care Networks

This list of certified workers' compensation health care networks, available on the TDI Web page, is updated as additional networks are certified and as service areas are modified.

Aetna Workers' Comp Access (AWCA)

Argus Provider Network

Bunch and Associates Inc, Texas HCN

CMI Barron Risk Management, Inc./Southwest Medical Provider Network

Concentra HCN

Corvel Healthcare Corporation/Corcare

First Health/AIGCS TX HCN

First Health HCN

First Health/Travelers HCN

Forte Inc./Compkey/First Health

Genex Services, Inc/Genex Care for Texas' Comp Access (AWCA)

Genex Services Inc./Genex Health Care Network

The Hartford Workers' Compensation Health Care Network – FH

IMO Med-Select Network/Injury Management Organization, Inc.

International Rehabilitation Associates Inc./IntraCorp.

Interplan Health Group, Inc./Zenith Health Care Network (ZHCN)

Intracorp/Lockheed Martin Aero Employee Select Network

Liberty Health Care Network

Memorial Hermann Health Network Providers, Inc./Worklink

National ChoiceCare, NCC ChoiceNet

North Texas Innovative Health Care Network, Inc.

Physician's Cooperative of Texas

SHA, LLC./FirstCare Network

Specialty Risk Services Texas Workers' Compensation Health Care Network (First Health)

Texas Star Network/Concentra

Zurich Services Corporation Health Care Network

Zurich Services Corporation Health Care Network/Corvel

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Certification Requirements for Workers' Compensation Health Care Networks

This issue of *WCNet News* focuses on general filing requirements and additional documentation requirements listed in exhibits 1 through 9. Upcoming issues of the newsletter will provide an overview of the required elements of a Workers' Compensation Health Care Network application.

All requirements are outlined in the *Texas Administrative Code* (TAC) §10.22 and must be reflected in the exhibits attached to the application.

Background and General Filing Requirements

Certified workers' compensation health care networks are the latest innovation in the delivery of medical treatment for injured employees. House Bill 7 (HB 7), which was passed by the 79th Legislature, enacted Insurance Code Chapter 1305 which allows workers' compensation carriers, including certified self insured employers and self insured governmental entities, to provide treatment to injured employees through health care networks that have been certified by the Department. In order to receive certification, a network must submit a completed application for certification that includes all of the required information set forth in the Department rules and a nonrefundable filing fee of $5000 to the Department's Health and Workers' Compensation Network Certification and QA Division (HWCN). The application form is available on the Department's Web site at the following link: www.tdi.state.tx.us/wc/wcnet under the general heading of "Forms." The Web site also contains detailed instructions for completing and filing the application and the required exhibits.

The required contents of the application for certification are fully described in the Department rules at 28 TAC §10.22. The application requires the submission of 21 exhibits that relate to evidence and information concerning the network applicant's organizational structure, contracts, financial condition, service area, network configuration, treatment guidelines, and the applicant's credentialing, quality improvement and utilization review programs.

When an application is received, the Department staff reviews the application and exhibits to ascertain whether the filing is complete. If so, the Department has 60 calendar days to determine if the filing is also compliant with the rule requirements. If the application is not compliant, the Department will notify the applicant and identify the deficiencies. The applicant must correct any deficiencies before expiration of the review period. Otherwise, the application will be disapproved and the filing fee forfeited unless the applicant requests and the Commissioner approves an extension of the review period.

The Department encourages anyone who contemplates submitting an application for network certification to carefully review both the required contents of the application described in 28 TAC §10.22 and the application form filing instructions before submitting the application. Thorough, advanced preparation will assist network applicants in filing complete, compliant applications and exhibits, thus expediting network certification.

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Certification Requirements for Workers' Compensation Health Care Networks

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Requirements for Exhibits

Below is a description of the requirements for each exhibit of the application.

Exhibit 1 – Organizational Documents

Exhibit 1 requires a description of the applicant's basic organizational structure, and the internal organizational structure of the applicant's management and administrative staff. These documents include organizational charts or lists that show the relationship and the contracts between the applicant and its affiliates.

Exhibit 2 – Biographical Affidavits

Exhibit 2 requires a completed biographical affidavit for each person who governs or manages the applicant's affairs. This requirement extends to members of the governing board of the applicant, the chief executive officer, president, secretary, treasurer, chief financial officer and controller, and any other individuals with substantially similar responsibilities. A biographical affidavit is not required if a biographical affidavit from the person is already on file with the Department.

Exhibit 3 – Provider Contracts

Exhibit 3 requires the submission of the form of any contract between the applicant and any provider or provider group. To satisfy this requirement an applicant may submit either form contracts or executed contracts. 28 TAC §10.42 describes the minimum pro visions required for provider contracts and subcontracts.

Exhibit 4 – Third Party Contracts

28 TAC 10.22(4) requires that an applicant for a Certified Workers' Compensation Health Care Network include a copy of any agreement with any third party performing delegated functions on behalf of the applicant with their application.

The *Texas Insurance Code* (TIC) §1305.154(c)(10) requires that any agreement by which the network delegates any function to a third party be in writing, and that the agreement require the delegated third party be in writing, and require the delegated third party to be subject to all the requirements of subchapter D of the TIC §1305. Because Subchapter D includes network contracts with providers and network carrier contracts, third party contracts must include all of the provisions of 28 TAC §10.41 and §10.42, to the extent they are applicable to the agreement.

Third party contracts must be fully executed when submitted with the application.

Exhibit 5 – Network-Carrier Contracts

A copy of the form of each contract between the applicant and an insurance carrier should be submitted in Exhibit 5. The specific requirements for Network Carrier Contracts are listed in 28 TAC §10.41. The term "network" as used in this exhibit is as defined in TIC §1305.005(16) and should not be confused with the provider panel or provider network contracts to be submitted in Exhibit 3.

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Questions on Certified Networks

The TDI Certified Workers' Compensation Health Care Network Web page contains a wealth of information on certified networks, including Frequently Asked Questions (FAQs) for health care providers, carriers, employers and employees. The FAQ section can be accessed by scrolling down to the FAQ heading and selecting the appropriate category.

If your question is not addressed in the information on the TDI Web page or FAQ call TDI toll free at 1-800-252-3439 or submit your question to the Health and WC Network Certification and Quality Assurance Division by email to wcnet@tdi.state.tx.us.

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Exhibit 6 – Management Contracts

A management contract must be filed with the Department to be reviewed in accordance with TIC §1305.102 whenever any control of the operations of the network is delegated to another entity (affiliated, unaffiliated, or even the parent company) or if the applicant network entity uses management services of another entity. Management services are defined by 28 TAC §10.40(b). Management services do not include administrative services whereby no control or decision making authority is given to the other party. Neither do management services include medical and other health care services under the direction and control of a physician or other health care professional nor the function of credentialing physicians and other health care providers.

Exhibit 7 – Financial Information

The financial statements are required of the applicant's network. A common mistake applicants make is submitting the parent company's financial statements that include the network's financials on a consolidated basis. Although the financial condition of the parent company is important, stand alone financial statements for the network are still required. The Department's workers' compensation analyst is responsible for assessing the financial condition of the network, including whether it has made sufficient provision for its liabilities, independent from the parent company.

Exhibit 8 - Acknowledgement

For domestic network entities the location of the network entity's principal office within Texas should be disclosed in order to receive a service of process in accordance with TIC §804.101 (b). For domestic network entities that have moved their principal offices out of the state, the statute requires that the entity appoint and maintain as agent for service of process a person in Texas on whom a judicial or administrative process may be served. If an agent or attorney for service for lawful process is not appointed, TIC §804.102(c), would then govern and the Commissioner of Insurance would act as agent for process.

For foreign entities, the attorney for service for legal process is covered under TIC §804.103. The service of process would work the same way as the process noted in paragraph 2 above.

Exhibit 9 - Service Area

Exhibit 9 requires a narrative description of the service area the applicant is submitting for certification.

In addition, a map, including a key and scale, identifying each county to be served is required. In the event only a partial county is being submitted for certification, zip codes are required to identify the area of the partial county.

Quality Improvement Programs in Certified Workers' Compensation Networks

As part of an application, all certified networks must submit a Quality Improvement (QI) program plan designed to monitor and objectively evaluate the quality and appropriateness of health care and services provided to injured employees. A QI program should actively pursue opportunities for improvement.

The requirements for a QI program are outlined in 28 TAC §10.81 for workers' compensation networks. Every certified workers' compensation network must have a QI program and should dedicate sufficient resources, such as personnel and information systems, to the QI program. A QI program must include return to work and case management programs.

The applicant must also outline the organizational structure, functional responsibilities and the frequency of committee meetings.

Every QI program needs a work plan. The QI work plan should evolve as the network identifies new issues and should be updated at least annually. The work plan is a valuable tool for the network as it can be a snapshot of the network's overall effectiveness. It should reflect, in an objective manner, the network's strengths and challenges.

The work plan should include:

- Objective and measurable goals;
- Planned activities to meet the stated goals;
- Time frames for the implementation;
- Names of individuals responsible for each goal; and
- Methodology to be used for evaluation.

The entire QI program must be evaluated at least annually and a written report submitted to the network's governing body. The QI evaluation of network functions should include health care availability and accessibility, health care service continuity, treatment guideline adoption with periodic updates of, return to work guidelines; and provider and employee satisfaction survey results.

QI reports for networks certified in 2006 are due to the HWCN Division in March 2007, and annually each March thereafter. The first QI reports for networks certified in 2007 will be due in March 2008. Sample QI reports can be found on the Department's Workers' Compensation Health Care Network page by scrolling to the bottom of the page under the heading "More Workers' Compensation Health Care Network Information".

New Fingerprint Rules Effective January 1, 2007

Effective with new applications for certified workers' compensation health care networks received on or after January 1, 2007, individuals associated with a regulated entity, such as an officer or director, must provide fingerprints to the Department's vendor for electronic fingerprint processing. The fingerprint processing fee is $39, which is in addition to the $9.95 fingerprint collection fee charged by the vendor that takes electronic fingerprints for the Department and any other license or application fees. The new fee

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New Fingerprint Rules Effective January 1, 2007 continued from page 5

is required under Commissioner's Order number 06 1077 that adopts amended 28 TAC §1.501 and new §§1.503 1.509. The Order was published in the October 20, 2006 issue of the *Texas Register* (31 TexReg 8676). The new fee will pay for criminal history back ground checks by both the Texas Department of Public Safety and the Federal Bureau of Investigation.

The new fee primarily affects new applicants and applicants who have allowed their license, registration, certificate to expire or terminate. An individual who has previous ly submitted fingerprints to the Department and maintains a current license, registration, certificate, and/or association with an entity is generally not required to submit a new set of fingerprints, even if the individual is applying for a different license type. The sub mission requirements are detailed in the rule, in particular 28 TAC §§1.503 and 1.504.

As stated in the rule, electronic fingerprinting is fast and accurate, and in most cases will avoid potential delays in processing a submission. Nonresidents may continue to submit paper fingerprint cards to the Department because the vendor's locations are in Texas. Residents may also submit fingerprint cards, but can expect the process to be significant ly delayed as compared to the electronic process.

Please see Commissioner's Bulletin # B 0045 06 for additional information.

Health Care Providers Who Want to Join a Certified Network

The *Texas Insurance Code* requires each certified network to contract with a sufficient number of health care providers in the service area to meet the health care needs of injured workers.

TIC §1305.152(b) does not require a network to contract with every provider who applies. Specifically, a network is not required to accept an application for participation from a qualified provider if the network determines that it has contracted with a suffi cient number of qualified providers.

A provider interested in joining a network should contact the network directly.

The Department holds monthly conference calls with providers and office managers to discuss issues related to certified workers' compensation health care networks. Please see the calendar of events at the end of this newsletter for specific details.

The minutes and agenda of previous Provider/Office Manager Conference Calls can be accessed on the Workers' Compensation Networks page of the Department Web site.

Network Applicant Open Conference Calls

The Department also holds monthly conference calls with network applicants to discuss issues related to certified workers' compensation health care network applications. Please see the calendar of events at the end of this newsletter for specific details.

The minutes and agenda of previous Network Applicant Conference Calls can be accessed on the Workers' Compensation Networks page of the Department Web site.

Frequently Asked Questions (FAQs)

In each issue of *WC Net News* the Department will include FAQs for one of the seg ments of our audience. In this issue we focus on FAQs for employers/carriers.

Q. Does HB 7 allow for the use of networks by insurance carriers?

A. Yes. HB 7 allows for the creation of workers' compensation health care networks to provide health care services to injured employees. Under HB 7, an insurance carrier (including insurance companies, certified self insured employers, group self insured employers, and self insured governmental entities) may establish or contract with a workers' compensation health care network.

Q. What is a workers' compensation health network?

A. A network is an organization formed as a health care provider network to provide health care services to injured workers and is certified by the Texas Department of Insurance. The network must be certified in accordance with Chapter 1305, *Texas Insurance Code*, and 28 TAC §§10.20 10.27 and established by, or operating under contract with, an insurance carrier.

Q. How do workers' compensation health care networks work?

A. An employer who elects to provide workers' compensation insurance coverage under the Texas Workers' Compensation Act may elect to receive workers' compensation health care services for the employer's injured employees from a certified network. The employer's employees who receive notice of network requirements and live in the network service area will be required to seek covered health care services through a network health care provider if the employee is injured on the job. Injured employees must choose a treating doctor from the list of treating doctors provided by the network. If specialty treatment or services are required, the injured employ ee must be referred, by the primary treating doctor, to another provider in the net work for such care. If medically necessary specialty treatment or health care servic es are not reasonably available from a network provider, a treating doctor must refer the injured employee to a provider outside the network, subject to the approval of the network.

Q. Is the employer required to inform employees about a network?

A. Yes. If an employer has agreed to use the insurance carrier's workers' compensation health care network, then the employer is required to provide notice to all existing employees and all new hires of network requirements. The employer must obtain a signed acknowledgment from each employee that the employee has received the information and must post notice of network requirements at each place of employ ment. An employee who lives in the network's service area is not required to com ply with network requirements until he or she receives this notice. The refusal of an employee to sign the acknowledgment form does not allow the employee to obtain health care services outside of the network, except for an emergency. The employ er must also provide an injured employee with the notice of the network require ments at the time the employer receives notice of an injury.

Q. Will networks be required to comply with utilization review requirements?

A. Networks are not required to perform utilization review. However, if they choose to contract with carriers to do so, then HB 7 requires networks to comply with statu tory requirements relating to utilization review and retrospective review, including new and amended provisions in HB 7 that impact such reviews. The network must be certified as a utilization review agent.

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Q. Will networks be required to comply with Division (DWC) rules specifying which health care treatments and services require the insurance carrier's express preauthorization or concurrent review?

A. No. If a network or carrier uses a preauthorization process within a network, the requirements of Insurance Code Chapter 1305 and applicable TDI rules apply. A network or carrier may establish its own list of health care services that require preauthorization or concurrent review within a network.

Q. What are the requirements for setting up a workers' compensation health care network?

A. There are specific requirements in HB 7 relating to networks, including financial requirements, contracting requirements, access and availability of care requirements, and quality improvement program and case management requirements. TDI has adopted rules to certify networks and has been accepting applications for certifica tion as of January 1, 2006. For more information about the application requirements for workers' compensation health care network certification, you may contact the Health and Workers' Compensation Network Certification division at 512 322 4266 or WCNET@tdi.state.tx.us.

Q. Who will be a treating doctor in a network?

A. The network determines the specialty or specialties of doctors who may serve as treating doctors. However, even if a specialty is excluded as being a treating doctor for that network, providers of that specialty may provide health care services if they are in the network and the injured employee is referred to that provider by the treat ing doctor.

Q. Can an employer require an injured employee to use a network treating doctor?

A. Yes, under certain circumstances. If the employer contracts with an insurance carri er for the provision of health care services through a network, the requirement to use network providers depends on whether the injured employee lives in the net work service area and whether the employee has received notice of the network requirements. If the injured employee lives within the network's service area and has received notice of network requirements, then the employee is required to choose his or her treating doctor from the network's list of treating doctors and receive health care from network health care providers, regardless of the date of injury. The selection must be made within fourteen (14) days after the notice of network requirements have been received. There are exceptions to this requirement for emer gency care and for health care provided by an out of network provider pursuant to a referral from a treating doctor for medically necessary services that are not avail able in the network. The out of network referral must be approved by the network. If the employer contracts with an insurance carrier for the provision of health care services through a network, the requirements to use a network provider apply to all injured employees living in the network's service area, including those with injuries occurring prior to the inception of the certified WC networks, once proper notice of the network requirements has been given to the injured employee.

Q. I offer health insurance to my employees through an HMO plan. Can my employees go to their HMO primary care physician instead of a workers' compensation health network doctor?

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FAQs *continued from page 8*

A. Yes, under certain circumstances. If your employees have health insurance through a health maintenance organization (HMO) plan, your employees may select their pri mary care physician, who they selected prior to their injury, as their treating doctor for their workers' compensation claim. However, your employee's primary care physician must agree to follow all the terms and conditions of the workers' compen sation health care network's contract and comply with the Workers' Compensation Health Care Network Act (Chapter 1305, Insurance Code) and applicable rules.

Q. Can my employees continue to select any provider as a treating doctor?
A. No. If the employer contracts with an insurance carrier for the provision of health care services through a network, the injured employee must select a treating doctor from the list of available treating doctors in that network. However, network doc tors do not have to be on the Division's Approved Doctor List (ADL) to provide treatment.

Q. What requirements apply under HB 7 if an insurance carrier disputes the compensability of an employee receiving in-network medical care?
A. HB 7 requires carriers to notify a network health care provider in writing if the car rier decides to dispute the compensability of a claim. The carrier is prohibited from denying a medical bill for medically necessary services on the basis of compensabil ity for health care services that were provided before the carrier's written notifica tion to the provider.

Q. What requirements apply under HB 7 if a carrier successfully contests the compensability of a claim for in-network medical care?
A. HB 7 provides that if the carrier successfully contests compensability, the carrier is liable for up to a maximum of $7,000 for medically necessary health care provided before the carrier's written notification that the carrier contests the compensability of an injury.

Previous Issues of WCNet News

Previous issues of WCNet News are located on the TDI Workers' Compensation Health Care Network Web page under "Latest News".

Calendar of Events

Network Applicant Conference Call – 1-888-387-8235 - passcode 5751967

Thursday, February 8, 2:00 3:00 p.m. CST
Thursday, March 8, 2:00 3:00 p.m. CST
Thursday, April 5, 2:00 3:00 p.m. CST
Thursday, May 10, 2:00 3:00 p.m. CST

Provider/Office Manager Conference Call – 1-888-387-8235 - passcode 5751967

Tuesday, February 13, 2:00 3:00 p.m. CST
Tuesday, March 13, 2:00 3:00 p.m. CST
Tuesday, April 10, 2:00 3:00 p.m. CST
Tuesday, May 8, 2:00 3:00 p.m. CST