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THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1200

NOV 23 1994

MEMORANDUM FOR:

ASSISTANT SECRETARY OF THE ARMY (M&RA)
ASSISTANT SECRETARY OF THE NAVY (M&RA)
ASSISTANT SECRETARY OF THE AIR FORCE (MRAI&E)

SUBJECT: Medical Necessity Reviews for Non-availability Statements (NASs)

In a Health Affairs memorandum dated June 6, 1994 ([Attachment 1](#)), the Services were directed to conduct medical necessity reviews on one hundred percent of all requests for care requiring non-availability statements (NASs). This policy was implemented in order to achieve consistent measurement of workload between time periods before and after start work dates of managed care support contracts. Consistency in workload measurement is critical to accuracy in the bid price adjustment process.

Existing NAS decision making processes are administrative reviews for determination of MTF capacity or capability and, as such, are not suited to clinical necessity determinations now required. Therefore, it is necessary to establish a process which 1) is appropriate for determining medical necessity of requested care and 2) affords providers and beneficiaries due process in appealing adverse decisions.

According to the DoD Office of General Counsel, under the applicable statutory authority [10 U.S.C. 1079(o)], medical necessity determinations for CHAMPUS are made under the "CHAMPUS Peer Review Organization Program," which is, by law, modeled after the Medicare Peer Review Organization program. Consistent with this, detailed CHAMPUS regulations (32 CFR 199.15), which include specific Medicare regulations (42 CFR Parts 466, 473, and 476), dictate particular procedures applicable to any determinations that CHAMPUS coverage for requested medical care will be denied on the grounds of medical necessity. While it may be possible for the direct care system to duplicate these procedures, the formalization of such a system would need to occur in the context of promulgation of the TRICARE regulation, now in development.

In the meantime, for purposes of the data collection period, there are several possible alternatives for meeting the requirement that NASs include a medical necessity determination:

- 1. Use existing regional Peer Review Organizations to perform medical necessity reviews for the**

MTF. -- Although this option requires some contract modifications, it is attractive since Regional Peer Review Organizations, or Regional Review Centers (RRCs), meet all requirements of CHAMPUS law, are already in place, and could most readily assume this additional workload. Region 6, after determining existing resources were not sufficient to perform this function in the direct care system has chosen this alternative. Contract modifications for Region 6 RRCs are now underway to allow their assumption of medical necessity reviews for all NAS requests. This option is most like procedures which will be in place following start work dates of MCS contracts. When in place, managed care support contractors will conduct all medical necessity reviews of care which requires an NAS. Funding for regions selecting this option will be provided under the current Peer Review Organization (PRO) program in Health Affairs.

2. **Conduct medical necessity reviews within the direct care system, but do not withhold NASs on this basis.** -- As mentioned above, denials of CHAMPUS care based on medical necessity determinations may only be rendered by a Peer Review Organization. MTFs may conduct reviews to determine whether care would have been identified as medically necessary. Review decisions could then be tracked during the data collection period to determine the number of NASs which did not meet medical necessity criteria and, consequently would have been denied. This information can then be used to derive adjustment factors in the bid price adjustment process. This approach will be contentious in that contractors will question how closely it resembles the decision making process which will exist in the post award period. Service funding would be required for this option.
3. **Conduct retrospective analysis of NASs issued during data collection period.** -- Regional PROs could conduct a retrospective review of NASs issued during the twelve months immediately preceding the data collection period. Using a statistically valid sample, medical records relating to care which required an NAS would be reviewed against InterQual/HMSI criteria to determine the proportion of cases which would have been denied on the basis of medical necessity. This data would then be used to derive an adjustment factor for use in the bid price adjustment process. Although this option is not as desirable as the first, it is likely to be less contentious than the second alternative since reviews will be conducted by the regional PRO which, presumably, will be using review processes most like those which MCS contractors will employ post award. As with Option 1, Health Affairs would fund this option through the existing Peer Review Organization Program.

Although the bid price adjustment focuses primarily on inpatient NASs, Lead Agents may elect to include outpatient NAS requests in this review process. Medical necessity reviews for obstetrics admissions related to delivery are not required; these are presumed medically necessary. Prior to implementing medical necessity determination processes for NASs, Lead Agents should review regional programs and capacity to determine how best to fulfill these functions. To ensure consistency in decisions and data collection, the option selected for meeting this requirement must apply to all MTFs within a region. Please indicate the option selected for each region by November 23, 1994. Depending on the option selected, my staff will provide guidance in developing necessary contract modifications and data collection. Should you have questions, or need additional information, please contact CDR Deborah Kamin or Ms. Jean Storck who may be reached at telephone (703) 697-8975.



for

Stephen C. Joseph, M.D., M.P.H.

Attachment:

As stated

cc:

Surgeon General of the Army

Surgeon General of the Navy

Surgeon General of the Air Force

HA POLICY 95-001

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Last update: 12/18/1998