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State: IL

Critics Want Assurance UR Bulletin Doesn't Include Comp: Top [2013-01-08]

By [Bill Kidd](#), Central Bureau Chief

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Critics of the bulletin say no other state has such a requirement for reviewers and that such a mandate in Illinois would raise costs for insurers and employers.

Chicago defense attorney Gene Keefe, who last week asked Insurance Director Andrew Boron to explain both the intent of the bulletin and Boron's authority to issue it, told WorkCompCentral Monday that a "semi-official" response from a Department of Insurance analyst says the bulletin doesn't apply to workers' compensation.

But Keefe and utilization review companies want Boron to make it official and remain concerned about distinguishing between workers' compensation and health care cases.

In the bulletin, Boron said that utilization review functions "must be performed within the state of Illinois." Boron said the department will not permit "offshoring" of either UR or third-party administrator functions.

In a Jan. 3 email to Boron, Keefe asked the director to cite the specific language authorizing the requirement that all Illinois utilization review work be performed within the state. Keefe said he could not find the language in state statutes.

Keefe said he had carefully analyzed the bulletin and the statutory provisions cited by Boron and did not find any language which would allow Boron to assert that the law "requires utilization review to be conducted within this state."

On Monday, Keefe said he had received a copy of "a 'semi-official' response" from a department analyst. The response was sent "to one of our contacts" who forwarded it to him, Keefe said.

The analyst said that "at this time, the above referenced bulletin does not include workers' compensation or independent review organizations registered with this department." All utilization review organizations (UROs) providing health care utilization reviews "will be required to have an Illinois office and hold contracts with Illinois licensed physician reviewers," the analyst said.

The analyst said that "going forward, all companies registered to perform UR (health) will have at a

minimum...one year to comply with this bulletin. Our staff is currently working on a Q&A reference page to address all of the questions/concerns we have received.”

Keefe said the bulletin “speaks to both UR and TPA services and their licensure.”

“As veteran defense lawyers, we don’t agree at all with Director Boron’s legal position on what the Managed Care Reform and Patient Rights Act says and how the (department) now appears to want to enforce it,” Keefe said.

“For a number of reasons, we don’t want UR and TPAs to be ‘offshored’ or situated in foreign countries. On the opposite side of the same debate, we don’t think of URs or TPAs in Indiana, Tennessee or California to be ‘offshored’ work,” Keefe said.

Michael Gavin, chief strategy officer for Prium, a workers’ compensation utilization management company based in Duluth, Ga., told WorkCompCentral Monday that he – and Prium’s legal staff – agree with Keefe that the analyst’s memo doesn’t constitute an official response by Boron, and that the memo “leaves questions about the distinctions between group health care and workers’ comp.”

Gavin said that requiring in-state utilization review could reduce the number of reviewers available to perform reviews, causing delays and additional expense to payers.

"On the cost side, it’s a question of basic economics," Gavin said. Requiring utilization review doctors to be domiciled in a particular state "constrains...artificially, I would argue...the supply of potential reviewers," Gavin said.

If demand is either constant or increasing – as is the case in Illinois – the cost for using those reviewers "will inevitably rise," Gavin said. Those costs "will be passed on to the carrier and employer community," he said.

Gavin said the requirement also would affect a utilization review company’s ability to obtain specialists to perform reviews.

"There are only so many neurosurgeons to go around, not to mention that only a subset of that already small supply of specialists are willing to engage in the (utilization review) process as reviewers," Gavin said.

Gavin also said he believes having reviewers from other areas can improve the quality of reviews.

Doctors living in the same area – or the same state – may have trained together or have relationships such as referral of patients, Gavin said. Allowing reviews by providers in other areas can help avoid conflicts of interest and increase objectivity, he said.

Gavin said Prium will continue to perform reviews in Illinois as it has been doing, until it can confirm that it must change its procedures.

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The feeling is that in the United States, "medicine is medicine wherever it's practiced," and that providers who are licensed in one state are competent to review care provided in another state, Andrew said. CID Management is based in Westlake Village, Calif.

Department of Insurance spokeswoman Kimberly Parker said Monday that she had no new information on the bulletin.

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