



[Back to News](#) | [Print News](#)

State: MS

Requirement for Specialty Matching in UR Sparking Concern: Top [2013-10-10]

[By Michael Whiteley](#), Eastern Bureau Chief

The Mississippi Association of Self-Insurers is asking the state Workers' Compensation Commission to modify a section of its proposed 2013 Medical Fee Schedule that requires denials of pre-certifications for medical treatment be approved by doctors trained in the same specialty as the requesting providers.

The fee schedule updates fees to conform to 2013 Current Procedural Terminology Codes, imposes a cap on prices charged for compounded pain creams and revises the commission's utilization-review process. The commission held a public hearing on the proposed 824-page fee schedule on Sept. 19 and is expected to put the schedule into effect on Nov. 1.

Self-insured employers are contesting a requirement that all denials of pre-certifications for treatment of injured workers or adverse determinations resulting in the denial of payment to providers be evaluated by and concurred with by Mississippi-licensed physicians "properly trained in the same specialty or sub-specialty as the requesting provider who is seeking approval for treatment for services."

The fee schedule also would require that all adverse determinations be made within two business days by telephone, facsimile or email and provided in writing within one business day after that.

Dan Gibson, executive director of MASI, said Wednesday his group has met with the commission and with the Mississippi Department of Health. The self-insurance group is asking that the rule be modified to match a 2009 state law that requires the use of state-licensed physicians and specialty matching in utilization reviews but only if the patient's physician requests a specialist to review the request.

Gibson said the group is also asking the commission to extend the two-day deadline for decisions in utilization reviews.

"Some physicians are complaining that they're getting tired of being second-guessed by general practitioners. We understand that a general practitioner should not rule on a decision by a neurosurgeon," Gibson said. "But these decisions are currently made by medical directors for most case-management companies."

He said the requirements "will result in impossible timetables and large increases in expenses."

The National Council on Compensation Insurance is pricing the proposed fee schedule, but said Wednesday it hasn't completed its report.

Connie Mills, director of medical cost-containment for the Workers' Compensation Commission, said the commission intends to go forward with the fee schedule on the advice of the Mississippi Health Department, which requires that decisions to deny treatment be made within two days by a qualified medical peer.

The provision also has the backing of the Mississippi Association for Justice, which argues doctors used in utilization reviews are considered to be biased towards insurance companies and self-insured employers.

"I am not aware of any case in which an administrative law judge has gone along with a utilization-review doctor," Rogen Chhabra, chairman of the governing board of the Association for Justice, said Wednesday. "Judges know that the UR reports are bought and paid for by an insurance company. Judges need to see credible doctors that are licensed by the state of Mississippi and have the appropriate specialties."

Mark Pew, senior vice president of business development for Georgia-based cost-containment and utilization-review firm Prium, said the new requirements being proposed in Mississippi are "fairly uncommon."

He said Texas, which also requires the use of state-licensed physicians, mandates decisions on utilization review within three days. California requires decisions in five days, and Alabama mandates UR decisions in one day.

Texas requires reviews by doctors with the same specialties as doctors requesting approval of the treatment when UR decisions are appealed.

Pew said seven states – Connecticut, Colorado, Mississippi, Nevada, New York, Tennessee and Texas – require the use of physicians licensed in their states for utilization review.

Dr. Robert Weinmann, a San Jose, Calif., neurologist who participates in utilization reviews, said California laws and regulations don't expressly require that UR doctors be of the same specialty as the treating physician. He said the new Mississippi fee schedule should require reviewing physicians to have training in the specialty involved in treatment, but should provide leeway for use of physicians who have been cross-trained in related disciplines.

"I think it's possible to draw too fine a line. There are some neurologists, for example, who are trained in electronic diagnostic testing and can render treatment decisions in related areas. To a certain extent, this comes to a question of turf," Weinmann said.

Steve Cattolica, a lobbyist for the California Society of Industrial Medicine and Surgery, said California does not require specialty matching, but calls for reviewing physicians to have competency in the treatment under review. He said the lack of expertise in a particular specialty could be a reason for a treatment decision to be changed during independent medical reviews.

Gibson said Mississippi employers have endorsed the majority of the 2013 fee schedule changes, which require authorization for the use of all compound cream medications and cap prices of compounded creams at \$300 for 120 grams. Use of more than 120 grams of the creams in a month requires a second pre-authorization.

The fee schedule also:

- Redefines the average wholesale price applied to durable medical equipment as a "price generally 20% greater than a manufacturer sells to distributors and large customers based on data obtained from manufacturers."
- Limits chiropractic treatment performed as part of a "work-hardening program" to between 15 and 30 days without pre-authorization.
- Redefines usual and customary charges as those established by Fair Health, the nonprofit pricing firm established as part of the 2009 settlement between then New York Attorney General Andrew Cuomo and United Healthcare Group regarding out-of-network prices.

The proposed fee schedule is [here](#).

A MASI posting on the portion of the fee schedule requiring specialty matching is [here](#).