

# Formulary Committee Meeting

## Minutes

Mon, July 16, 2018 9:00 am

- I. **In attendance (10):** Celeste Ackerman, Julia Brennan, Kristine Ediger, Michelle Fairclough, Bri Lake, Adrienne McLean, Bill Wheeler, Lance Zanto, Cindy Zimmerman, and Jean Branscum  
**On the web (11):** Becky Curtis, Leslie Dalpiaz, Jennifer Hepfner, Mike Marsh, John Schumpert, Monica Sanchez, Ken Eichler, Adam Fowler, Lisa Anne Bickford, and Lynette Cozanich
  
- II. **Housekeeping**
  - a. The next meeting will be in September
    - i. Organizing email will go out within two weeks.
    - ii. August will focus on outreach and education and preparing for the Governor's Conference (GC)
    - iii. Future meetings will use Skype instead of GoToMeeting – the department is making a change on August 9<sup>th</sup>
  - b. Long term plan with the committee is to report back on the response from LMAC (meeting at GC) and go through the comments from FairClaim, and look at the full integration of the formulary rules with existing rules
  - c. The goal is to have a draft by the September meeting that is ready for formal rule making
  - d. Looking for volunteers to help with outreach and education
  - e. Bill announced the award recipient of the IAABC NextGen Award – Bri Lake
  
- III. Draft Rules (using 7/11/18 rule draft)  
**Legacy claims including Rule II on pg 2 and Rule VI on pg 5**
  - a. Bill Wheeler stated TN and TX require notice to injured workers and treating physicians. Montana does not have authority to require notice but included in the rules is a 90 day notice outlined in Rule II(2) and Rule VI(2)(b) that states the delay of the formulary applying to legacy claims until the insurer has sent notice
  - b. Mike Marsh recommended adding “when medically necessary” to Rule IV (2)
  - c. Jean Branscum asked about definition of supportive services, it is defined in Rule I on pg 1 number 9
  - d. Jean also proposed changing “may” on pg 5 under Rule VI so that it will be covered and not just delivered, Bill asked, “should” or “shall”, something that bears more weight
    - i. Vicki Evans asked about the efficacy of the proposed treatment plan/supportive services and that insurers may be paying for treatment that does not lead to better outcomes because of lack of buy-in from the injured worker
  - e. It was suggested that Rule VI (8) and (9) should somehow be combined
  - f. Ken Eichler suggested a clause that state law would supersede the rules if there were specific state prescribing limitations
    - i. There may be upcoming legislation but the formulary does not currently include specific day or dosage limitations only reference to MT U&T guidelines which will come second to any statutes adopted by the state for prescribing
  - g. Michele Fairclough has a question about the 90-day notice and what if providers do not respond (in regards to legacy claims)

- i. Jean Branscum asked if one physician is waiting on another physician or specialist before responding
- ii. John Schumpert suggested he (medical director) could reach out to specific physicians that are not responding
- iii. Ken Eichler stated it was in the physician's best interest to respond
- iv. Jean Branscum suggested an incentive for physicians to respond
- v. Ken Eichler said that physicians should be able to bill E&M codes for the transition plan including cognitive behavioral therapy that supports the physician's decisions
- vi. Adam Fowler from Optum pointed out that in Rule VI it states in (5) the physician will be reimbursed by the fee schedule
- vii. Adam also stated that in CA if the physician doesn't respond then prior authorization is required automatically
- viii. Bri Lake asked if the insurer doesn't send notification, how does the PBM know after 4/1/2020 that the formulary rules don't apply to a given claim?
- ix. Leslie Dalpiaz suggested revising the definition of the treating physician to include "will respond" in regards to formulary reporting requirement and that "failure to respond should not adversely affect the IW" or some variation of that wording
- x. Lisa Anne also suggested a denial if the physician does not respond
- xi. Bill said that we do not want the injured worker to be harmed or adversely affected in waiting for the physician to respond
- h. Bill Wheeler and team are working on a narrative for the notices, TX and TN both have samples
  - i. Vicki Evans asked for copies so they can model their notices after them
- i. Ken Eichler and Adam Fowler both suggested a FAQ document
  - i. Core Team already has that in the works
- j. Vicki Evans suggested striking "CERTAIN" in Rule VI title because it includes all legacy claims that the rule applies
- k. Bill Wheeler said that Rule VI is also going to include notice to prescriber
- l. Michele Fairclough from MSF said it is common when they send out a letter to a physician the response is simply "medically necessary" without details
  - i. Jean Branscum had a question and concern in Rule VI (5) if it is common to get a brief response from the physician then "a well-reasoned and suitably explained basis" may be a cause for delay of care for the injured worker
  - ii. Michele Fairclough suggested striking that language and putting in "provide supporting documentation" or something like that
  - iii. Vicki had a concern that limiting the requirement for the documented basis might give a physician a pass to not transition when it may be beneficial
  - iv. Lisa Anne asked what if the provider finds that all their patients treatments are medically appropriate because it is the path of least resistance?
  - v. Bill explained education and outreach is the goal
    - 1. Jean encouraged education and outreach to all physicians
  - vi. John Schumpert said he would like the documentation to include clinical evidence for their decision and more than a handwritten note, and that physicians will be reimbursed for that extra effort
- m. Adam Fowler had concerns about abruptly cutting off legacy claims
  - i. Bill Wheeler explained there could be request for expedited review but the insurer was not required to cover the Rx while in review

1. No statutory authority to order insurers to continue paying while in review
  - ii. Ken Eichler asked Michele Fairclough how MSF currently deals with this and she said MSF pays for refills
- n. Jean Branscum suggested that the prior authorization process for all should be 3 days and not 14 days

**First Fill including Rule V on pg 4**

- a. Bill Wheeler wanted to revisit after hearing concerns about Rule V (6) and suggested either striking (6) or keeping part of (6)
    - a. Vicki Evans, Ken Eichler, and Michele Fairclough agree with striking completely
    - b. Ken Eichler said it opened the possibility of adjusters paying for medications not related to the injury i.e diabetes or hypertension medications even with the statement that it must be “injury appropriate”
    - c. Lance Zanto has gotten feedback that it should be taken out due to constitutionality and due process issues
    - d. Adam Fowler stated most PBMs already have something in place and that insurers can do a retrospective review
    - e. Leslie Dalpiaz suggested keeping it but changing the wording to include that an insurer can contract with their PBM/TPA/etc. to cover the cost
- IV. Education and Outreach Plan- Bill and Cindy
- a. Cindy spoke about brainstorming meeting last Tuesday with Dr. Gregory Holzman from the MT Dept. of Health and he gave some good feedback on who to reach and the messaging
  - b. There will be another meeting next Monday the 23<sup>rd</sup>
  - c. Jean Branscum said that she was part of the creation of <http://knowyourdosemt.org/> which includes a list of comprehensive resources for physicians on prescription abuse, defining the problem, including education and tools, and also a link for pain management, and how to store and dispose of prescriptions for patients etc.
    - i. Jean recommended that if physicians saw their own data and prescribing vs. their peers that would work well
  - d. Ken Eichler stated that even though Dr. Snyder from TN reached out to every physician in the state that there were still questions and ongoing education but that the ODG list will help make things easier for the physicians
  - e. Lisa Anne Bickford said that in CA webinars were made available to all and then specific ones were geared toward physicians, they can be found on CA’s webpage, and it is a make available for free CE credits
- V. Next Steps-
- a. Rules - Present rules to LMAC @ Governors Conference
  - b. Formal rule making procedures begin in fall
  - c. Education and Outreach (Gantt timeline)