

1 **SUBCHAPTER 10D – WORKERS’ COMPENSATION RULES FOR MANAGED CARE**

2 **ORGANIZATIONS**

3 **SECTION .0100 – Rules**

4 **4 NCAC 10D .0101 PURPOSE**

5 ~~These~~ The Rules in this Subchapter are intended to facilitate the timely and cost-effective delivery of appropriate
6 medical compensation services to fulfill the employer's duty to provide such services as are ~~reasonably~~-necessary to
7 effect a cure, give relief, or shorten the period of disability resulting from compensable injuries through the use of
8 Managed Care Organizations (MCOs). ~~These~~ The Rules in this Subchapter do not affect ~~existing~~, informal lists or
9 "employer networks" of providers assembled by employers or insurers for their own referrals.

10 *History Note:* *Authority* G.S. 97-2(19); 97-2(20); 97-2(21); 97-25; 97-25.2; 97-25.3(e); 97-25.4(a); 97-26(b);
11 97-26(c);

12 *Eff.* January 1, 1996;

13 *Amended Eff.* January 1, 2013.

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1 **4 NCAC 10D .0102** **DEFINITIONS**

2 ~~As used in these Rules, unless context otherwise dictates:~~ As used in this Subchapter:

3 ~~(1) Managed Care Organization (MCO). A preferred provider organization (PPO) or a health maintenance~~
4 ~~organization (HMO) regulated under G.S. 58.~~

5 ~~(2) Health Care Provider (Provider). Any medical doctor, chiropractor, other physician, hospital, pharmacy, nurse,~~
6 ~~dentist, podiatrist, physical therapist, rehabilitation specialist, psychologist and any other person or firm providing~~
7 ~~medical care pursuant to the Workers' Compensation Act. Payment for services rendered for a workers'~~
8 ~~compensation patient shall be controlled by contract between the provider and MCO, or if none, by the~~
9 ~~Commission's Medical Fee Schedules.~~

10 ~~(3) (1) Employer. Any person, firm, corporation, or governmental entity~~ “Employer” means an employer as defined
11 by G.S. 97-2(3) who is obligated by the Workers' Compensation Act to pay or provide indemnity or medical
12 compensation, including any insurance carrier, self-insurance fund, third party administrator or other person, firm or
13 corporation undertaking to pay or adjust claims on behalf of the employer's employees.

14 ~~(4) Commission. The North Carolina Industrial Commission and its employees acting on its behalf.~~

15 ~~(5) (2) Workers' Compensation Act. “Act” means The the North Carolina Workers' Compensation Act, G.S.~~
16 Chapter 97, Article 1 (G.S. 97-1 – 97-101), as interpreted and applied by the rules and decisions of the Commission
17 and the courts of North Carolina and the United States. (G.S. 97-1 – G.S. 97-101.1).

18 ~~(6) (3) Employer Network. As used in Rule I, “Employer network” means any group of providers assembled by or~~
19 ~~for an entity liable for medical compensation that agrees to accept the referrals of that entity's workers'~~
20 ~~compensation patients, and from among whom an adjuster, officer, employee, or insured patient of the entity~~
21 ~~chooses the initial provider; provided, the entity has no right to sell the services of the providers to a third party.~~

22 *History Note:* Authority G.S. 58-50-50; 97-2(3); 97-2(20); 97-26(b); 97-26(c); 97-2(21);

23 97-25; 97-25.2; 97-77; 97-79;

24 *Eff.* January 1, 1996;

25 *Amended Eff.* January 1, 2013.

1 **4 NCAC 10D .0103**

QUALIFICATION BY DEPARTMENT OF INSURANCE

2 ~~Prior to provision of any service for workers' compensation patients pursuant to an MCO contract with any~~
3 ~~employer, an MCO shall comply with the applicable requirements of G.S. 58, Insurance, and the regulations~~
4 ~~promulgated pursuant thereto, in addition to these Rules, except as they may be interpreted to specifically conflict~~
5 ~~with the Workers' Compensation Act and these Rules; provided, that MCOs with such existing contracts on the~~
6 ~~effective date of these Rules shall comply with this Rule on or before February 1, 1996. In the absence of effective~~
7 ~~and binding regulations administered by the N.C. Department of Insurance setting appropriate and sufficient~~
8 ~~requirements and standards for health care provider contracts, accessibility of providers, financial ability to meet~~
9 ~~contract commitments, quality management or quality assurance programs, health care provider credentialing,~~
10 ~~conflicts of interest, records and examinations, internal auditing, confidentiality and other appropriate matters, every~~
11 ~~MCO offering medical compensation services shall comply with temporary orders or provisional regulations issued~~
12 ~~by the Commission, consonant with the Workers Compensation Act, pending further formal rulemaking by the~~
13 ~~Commission or the Department of Insurance.~~

14 *History Note:* *Authority* G.S. 97-2(21); 97-25;
15 *Eff.* January 1, 1996;
16 *Repealed Eff.* January 1, 2013.

17

1 **4 NCAC 10D .0104** **QUALIFICATION AND REVOCATION**

2 ~~Upon receipt of documents complying with Rule .0104, nothing otherwise appearing, the Commission will issue a~~
3 ~~letter to the MCO acknowledging receipt and stating that the MCO is qualified to contract to serve workers~~
4 ~~compensation patients while it holds an MCO certificate from the Department of Insurance, subject to renewal at a~~
5 ~~specified time, not exceeding three (3) years. For good cause, including, but not limited to, For~~ ineffective delivery
6 of medical services, failure to comply with applicable laws, rules or regulations, and failure to ~~timely~~ respond to
7 lawful orders of the Commission or other regulatory authorities, the Commission ~~may~~ shall suspend or revoke an
8 MCO's permission to deal with any particular workers' compensation patients, employers or providers, groups or
9 classes of them, or all of them.

10 *History Note:* *Authority* G.S. 97-25.2;
11 *Eff.* January 1, 1996;
12 *Amended Eff.* January 1, 2013.

1 **4 NCAC 10D .0105**

NOTICE TO COMMISSION

2 (a) Upon contracting with an employer to provide medical compensation services, ~~the~~ an MCO shall provide to the
3 ~~Commission:~~ Commission the following:

- 4 (1) a copy of that portion of the contract containing the provisions specified in Rule ~~.0105,~~ .0106 of
5 this Subchapter and the method for determining payment to the MCO, excluding those of its terms
6 kept confidential by the ~~N.C.~~ North Carolina Department of Insurance, initialed by the employer;
7 (2) a copy of its current certificate(s) issued annually by the ~~N.C.~~ North Carolina Department of
8 Insurance pursuant to ~~N.C. Gen. Stat.~~ Chapter 58; and
9 (3) the name and address of all owners or shareholders, or related groups of owners or shareholders,
10 holding more than ~~10%~~ 10 percent interest in the MCO, and whether they are or have any
11 relationship with a provider. ~~Persons or firms are related, for the purposes of this Rule, if either~~
12 ~~has a financial interest in the other; shares officers, agents, or employees; or, if natural persons, are~~
13 ~~first cousins or closer in kinship. An MCO subject to these Rules shall report its medical~~
14 ~~compensation expenditures annually on I.C. Form 51.~~

15 (b) Persons or firms are related, for the purpose of this Rule, if either has the following:

- 16 (1) a financial interest in the other;
17 (2) shares officers, agents, or employees; or,
18 (3) if natural persons, are first cousins or closer in kinship.

19 (c) An MCO subject to the Rules in this Subchapter shall report its medical compensation expenditures annually on
20 I.C. Form 51.

21 *History Note:* Authority G.S. 97-25.2;
22 Eff. January 1, 1996;
23 Amended Eff. January 13, 2013.
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1 **4 NCAC 10D .0106**

CONTRACT PROVISIONS

2 An MCO's contract with an employer subject to ~~these~~ the Rules in this Subchapter shall include: ~~these provisions:~~

- 3 (1) ~~The~~ the principal place(s) of employment of the covered employees, including address(es) and
4 phone number(s) of the workplace(s);
- 5 (2) ~~The~~ the name, title, mailing address, phone number, fax number, and ~~e-mail~~ email address, if any,
6 of an officer or responsible employee of the MCO empowered to assent to the treatment or referral
7 of covered employees, capable of obtaining and providing complete business, administrative and
8 medical records generated pursuant to the contract, and empowered to resolve routine disputes
9 with ~~patients,~~ employees, employers and providers under the Commission's jurisdiction;
- 10 (3) ~~The~~ the name, title, mailing address, phone number, fax number, and ~~e-mail~~ email address, if any,
11 of an adjuster, officer, agent or employee of the employer empowered to negotiate the resolution
12 of routine medical compensation disputes, and receive orders of the Commission on behalf of the
13 employer;
- 14 (4) ~~An~~ an acknowledgment that the MCO is bound by applicable requirements of ~~G.S. Chapters~~ G.S. Chapters 58
15 and 97 of the North Carolina General Statutes and these Rules, the Rules in this Subchapter, and is
16 subject to orders of the Commission to the same extent as the employer;
- 17 (5) ~~The~~ the agreement of the employer that it will cooperate and ~~actively~~ assist in furnishing its
18 employees and supervisors with a phone number and instructions for obtaining emergency
19 treatment ~~and/or~~ and contacting the MCO upon injury to any employee during the workday or on
20 the employer's premises requiring physician attention; ~~attention, and with furnishing to its injured~~
21 ~~employees the information and card hereinafter required in Rule .0106;~~
- 22 (6) ~~Specify~~ a dispute resolution plan in accordance with G.S. 97-25.2 ~~and 11 NCAC 12 .0914,~~
23 including provisions for notice of decision in appeals within 30 days, or within 72 hours of appeal
24 when the regular appeals process would cause a delay in the rendering of health care that would be
25 detrimental to the health of the employee;
- 26 (7) ~~Describe~~ a description of physician panels, including specialties represented, and the employee's
27 right to select his or her attending physician from the appropriate panel, and to subsequently
28 change attending physicians once within the members of the panel; and
- 29 (8) ~~Whether~~ whether the MCO or employer will be responsible for securing the services of "out of
30 network" providers when needed.

31 *History Note:*

Authority G.S. 97-25.2;

Eff. January 1, 1996;

Amended Eff. January 1, 2013.

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1 **4 NCAC 10D .0107**

INFORMATION FOR ~~EMPLOYEE/PATIENT~~ EMPLOYEE

2 The employer shall inform employees of its arrangements with an MCO for providing medical compensation
3 through its usual means of communicating company policies and benefit information, and provide a wallet size card
4 bearing a phone number to be contacted in case of a work related injury, and otherwise complying with Department
5 of Insurance regulations. As soon as reasonable possible following the injury, the employer or MCO shall provide
6 to the employee a printed explanation of the system being utilized for his care, suitable for sharing with emergency,
7 "out of network", and referral physicians, which shall be filed with any Form 19 submitted to the Commission;
8 provided, that electronic filers may otherwise notify the Commission of the identity of the MCO. This statement
9 shall include the following information:

10 (a) Following the onset of an injury, the employer or MCO shall provide to the employee a printed explanation of
11 the system being utilized for his care, suitable for sharing with emergency, "out-of-network", and referral
12 physicians, which shall be filed with any Form 19 submitted to the Commission; provided, that electronic filers may
13 otherwise notify the Commission of the identity of the MCO. This statement shall include the following
14 information:

- 15 (1) ~~The~~ the offices to contact concerning medical treatment for the injury, including a
16 telephone number;
- 17 (2) ~~If~~ if known at that time, the employee's chosen treating physician, including a phone number for
18 seeking medical assistance outside normal business hours if the injury might cause such a need;
- 19 (3) ~~The~~ the applicable methods for choosing and changing treating physicians and resolving disputes
20 concerning physicians or treatment pursuant to G.S. 97-25.2;
- 21 (4) ~~That~~ that the MCO can make available physicians in all the fields and specialties licensed by the
22 State of North Carolina;
- 23 (5) ~~The~~ the employer's obligation to pay for treatment for which the ~~employee/patient~~ employee is
24 referred to the MCO, whether or not the employer admits liability for the injury per G.S. 97-90(e);
- 25 (6) ~~The~~ the employee's duty to cooperate in treatment, and right to secure treatment at his or her own
26 expense that does not interfere with the treating physician's treatment; and
- 27 (7) ~~The I.C.~~ the Commission's File Number, if known when filed. ~~Information for providers concerning~~
28 ~~billing may be included, labeled as such.~~

29 (b) Providers may including identifying billing information on the statement.

30 *History Note:* Authority G.S. 97-25.2;
31 Eff. January 1, 1996;
32 Amended Eff. January 1, 2013.
33
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1 **4 NCAC 10D .0108**

INCLUSIVE PROVIDER PANELS

2 ~~As soon as reasonably possible following~~ Following the onset of an injury, and upon a patient's an employee's
3 first request to change attending physician, the MCO shall provide the ~~patient~~ employee with a list of reasonably
4 accessible and available panel physicians qualified to treat or manage the primary condition for which the employer
5 has accepted liability or authorized treatment from which the employee may select the attending physician. The
6 employer and MCO shall provide for ~~reasonable access and availability~~ to all medical compensation services, and
7 include in its panels, or otherwise make available for the employee's choice, one or more physicians representing all
8 specialties available in the community that are licensed to provide ~~foreseeably~~ necessary treatment for the ~~patient's~~
9 employee's primary compensable condition, if a physician of that specialty meets the MCO's ~~reasonable~~
10 credentialing criteria for that specialty, ~~and is willing to contract to provide their services on a non-discriminatory~~
11 ~~basis.~~

12 *History Note:* Authority G.S. 97-2(19); 97-2(20); 97-25; 97-25.2;

13 *Eff.* January 1, 1996;

14 *Amended Eff.* January 1, 2013.

1 **4 NCAC 10D .0109**

QUALITY ASSURANCE AND UTILIZATION REVIEW

2 An MCO subject to ~~these~~ the Rules in this Subchapter shall comply with the requirements of the ~~N.C.~~ North
3 Carolina Department of Insurance for quality assurance and utilization review plans, and upon request, provide the
4 Commission with copies of records generated by, or utilized in, the operation of those programs, and copies of plans
5 or amendments to plans not yet filed with the Department of Insurance.

6 *History Note:* *Authority* G.S. 97-25.2;
7 *Eff.* January 1, 1996;
8 *Amended Eff.* January 1, 2013.
9

1 **4 NCAC 10D .0110**

~~WAIVER~~ **SUSPENSION OF RULES**

2

3 ~~For good cause, and in its discretion, subject to statutory requirements, the Commission may waive adherence to any~~
4 ~~of these Rules.~~

5

6 To prevent manifest injustice to a party, or to expedite a decision in the public interest, the Commission may, except
7 as otherwise provided by the Rules in this Subchapter, suspend or vary the requirements or provisions of any of the
8 Rules in this Subchapter in a case pending before the Commission upon application of a party or upon its own
9 initiative, and may order proceedings in accordance with its directions.

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11 *History Note:* *Authority* G.S. 97-80(a); 97-25.2;

12 *Eff.* January 1, 1996;

13 *Amended Eff.* January 1, 2013.

1 **4 NCAC 10D .0111** **SANCTIONS**

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3 (a) The Commission may, on its own initiative or motion of a party, impose a sanction against a party or attorney or
4 both when the Commission determines that such party, or attorney, or both failed to comply with the Rules in this
5 Subchapter. The Commission may impose sanctions of the type and in the manner prescribed by Rule 37 of the
6 North Carolina Rules of Civil Procedure.

7 (b) Failure to timely file forms as required by either the Rules in this Subchapter or pursuant to the Act may result
8 in fines or other sanctions.

9 History Note:Authority G.S. 97-18(i); 97-25; 97-25.2; § 97-80(a); § 97-88(1); 1A-1, Rule 37;

10 Eff. January 1, 2013.