

New Mexico Workers' Compensation Administration
Office of General Counsel
Via email: gc.clerk@wca.nm.gov



November 11, 2024

Re: Comments on proposed changes to WCA Rules Part 7 related to “health care provider” dispensed medications

MyMatrixx, an Evernorth Company, appreciates the opportunity to submit comments to the Workers' Compensation Administration (WCA) regarding proposed amendments to the workers' compensation administrative rules, specifically provisions related to “health care provider” dispensed medications under Part 7 of the rules. By way of background, MyMatrixx provides pharmacy benefit management services to many workers' compensation insurance carriers, employers, and third-party administrators. Our strategic approach includes structuring customized client solutions around best-in-class core services, supported by advanced trend-management and clinical-review programs, to ensure safety for injured workers, while aggressively controlling costs.

MyMatrixx supports the WCA's effort to further control utilization of physician dispensed medications within the state workers' compensation system. Physician dispensing has continued to be a notable concern in many states for workers' compensation for several years. We believe the practice of physician dispensing bypasses the benefits of a pharmacy benefit manager and ignores critical patient safety alerts that are typically identified and communicated to retail pharmacies before medications are dispensed. The practice often also inflates medication costs by targeting specific medications that have higher Average Wholesale Price (AWP) values.

Along with our general support for controlling physician dispensing, we also would recommend the related language proposed to be amended in 11.4.7.9.D.(6) be clarified in terms of its use of the term “health care provider” in the context of dispensed medications. While we understand the WCA's intent in this language is to target specifically physician dispensing of medications, we believe the term “health care provider” that is being used may be overly broad and unintentionally include pharmacists.

“Health care provider” is understandably defined earlier in Part 7 as “any person, entity, or facility authorized to furnish health care to an injured or disabled worker pursuant to Section 52-4-1 NMSA 1978 ...” (11.4.7.7.P.) given the term is used elsewhere throughout Part 7 to reference many types of providers. That cited area of statute, NMSA Section 52-4-1, includes “pharmacist,” though: “As used in Chapter 52 NMSA 1978, ‘health care provider’ means: ... a pharmacist licensed pursuant to the provisions of Chapter 61, Article 11 NMSA 1978.” Given this, leaving in the term “health care provider” specifically in 11.4.7.9.D.(6) would likely loop in pharmacists and require all refills of any medications dispensed at a retail pharmacy to also go through pre-



authorization, which we do not believe is the WCA's intent. Such a scenario would also be overly burdensome to pharmacists and likely lead to unnecessary delays in care to injured workers.

To remove this potential unintended consequence, we recommend the WCA modify the language as proposed in 11.4.7.9.D.(6) to change the term "health care provider" when used in multiple places there to either "physician" or "health care provider other than a pharmacist," depending on if the WCA intends for this provision to cover just physicians or also other non-pharmacist practitioners (nurse practitioners or physician assistants, for example) who may be legally permitted to dispense medications from their office under their license. This change should ensure the language is targeted at the correct provider types.

Thank you for the open dialog during the rulemaking process over the last few months and for this final opportunity to submit written comments. We appreciate your consideration of our comments and recommendations. If you have questions regarding our positions, please contact me for further discussion.

Sincerely,

A handwritten signature in black ink that reads "Adam Fowler".

Adam Fowler

Director, Workers' Compensation Regulatory Affairs

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