BULLETIN

April 5, 2012

R.C. 2299

To: The Members of the Board

RE: Diagnostic Testing Network Regulations Take Effect
Workers’ Compensation Board Subject Number 046-480

The New York State Workers’ Compensation Board (WCB) has just released Subject Number 046-480 which describes new diagnostic testing network regulations and includes a survey regarding how carriers, physicians, patients and lawyers interact in arranging for diagnostic tests. The WCB is considering developing an application to give injured workers and their physicians the ability to determine whether the insurance carrier requires the use of a diagnostic testing network or a pharmacy network. It is critical for the development of the application that the WCB understand how carriers and self-insured employers use diagnostic testing networks; therefore, the WCB is asking that the survey be completed by as many stakeholders as possible.

A copy of subject Number 046-480 is attached for your information and reference. Questions regarding this Bulletin should be directed to the WCB.

Please distribute this information to the appropriate personnel within your organization.

Very truly yours,

Monte Almer

President

Encl.
MA: jg
Diagnostic Testing Network Regulations Take Effect and Chair Seeks Stakeholder Input on Medical Network Look-up Application Survey

Date: April 3, 2012

Overview

On February 28, 2012, at the Workers' Compensation Board monthly meeting, the Board adopted new regulations governing the procedures for use of diagnostic testing networks (12 NYCRR 325-7). The regulations supplement Workers' Compensation Law (WCL) §13-a (7) and represent the completion of the workers' compensation reform that began with significant statutory changes in 2007. The adoption of the regulations was published and took effect March 21, 2012.

When workers' compensation carriers and self-insured employers contract with legally and properly organized diagnostic testing networks, claimants are required to obtain diagnostic examinations and tests from providers affiliated with the designated diagnostic testing network. The use of diagnostic testing networks represents an important cost savings component of the 2007 reform efforts. The adopted regulations create procedures to ensure that workers' compensation claimants continue to receive prompt, appropriate and effective medical care.

Several key aspects of the regulation and its implementation are discussed below.

Notice to Claimants and Treating Medical Providers

The carrier or employer must provide advance notice to the claimant and treating provider to require use of a diagnostic testing network. The carrier or employer must use Board Form DT-1 or a substantially equivalent form that contains all the elements required by 12 NYCRR 325-7.5(d). The notice does not require a signature and should not be routinely filed with the Board unless notice is disputed. If mailed, receipt of notice is presumed to be five days from date of mailing.

The claimant must receive notice:

- At the time the carrier sends the statement of rights required by WCL § 110(2), or
- Within two weeks of the carrier requiring use of a diagnostic testing network.

Each treating medical provider must receive notice that patients covered by a particular carrier or self-insured employer are required to use a diagnostic testing network. This notice is provided:

- When the carrier or employer pays or objects to the treating medical provider's first bill for treatment, or
- When the carrier or employer sends a one-time mailing to all treating medical providers that the carrier or employer has identified as providers who have occasion to refer patients for diagnostic examinations or tests.

In addition, when authorizing a diagnostic test costing more than $1,000 under WCL §13-a(5), a carrier or employer shall notify the requesting physician that the claimant is required to use a diagnostic testing network.
**EFFECTIVE DATE OF NOTICE REQUIREMENT:** Carriers and self-insured employers that currently mandate use of a diagnostic testing network shall have twenty [20] days from the date of this Subject Number to notify treating medical providers if using the one-time mailing method.

**Arranging Testing Through Networks**

The carrier or employer must supply the treating medical provider with contact information for the diagnostic testing network and a list or web address for obtaining a list of affiliated network providers. The carrier or employer must also provide details on how to schedule necessary testing.

**Exceptions:** A claimant does not need to use a diagnostic testing network when:

- A medical emergency requires that the test be completed within 12 hours.
- None of the affiliated network providers within a reasonable distance of the claimant's home or work are able to schedule the requested test or examination within 5 business days.
- The carrier or employer iscontroverting the claimant's workers' compensation claim and has indicated that it will not pay for any examinations or tests.
- X-rays are medically necessary and an integral part of an office visit for the diagnosis and treatment of fractures, dislocations, tumors, infections or surgical follow-up.
- The carrier or employer has not provided notice to the claimant and his or her treating provider.

**IMPORTANT:** A Diagnostic Testing Network must schedule an examination or test within 5 business days of the date the examination or test is requested. If the Diagnostic Testing Network would like carrier or employer approval of the examination or test, the test still must be scheduled within 5 business days of the request. The only exception will be if prior authorization for the test is required under the Workers' Compensation Law and the Medical Treatment Guidelines. Failure to schedule a requested examination or test within 5 business days permits the claimant to obtain the requested test from an out-of-network provider and is payable by the carrier or employer at the Board established fee schedule rate.

**Information for Carriers/Employers and Diagnostic Testing Networks on Required Filings**

The regulations require diagnostic testing networks, as well as the self-insured employers and carriers that use them, to file certain information with the Board. Required filings should be submitted electronically to DTNfiling@wcb.ny.gov. Updates to the required filings must be made within 20 days of any change. The Board will request an annual update of ownership information for all diagnostic testing networks via email in February of each year.

**Medical Network Look-up**

The Board is considering developing an application on its website (www.wcb.ny.gov) to allow claimants, physicians, and others to determine whether a particular insurance company or employer requires use of a diagnostic testing network and to obtain necessary information about the network. The Board is in the planning stages and is seeking input from stakeholders on the features of such a look-up application. A survey is available at http://www.surveymonkey.com/s/DTN_PBM_Survey and should be completed by April 20, 2012. If it is determined that a Medical Network Look-up application would be useful, the Board hopes to have it available by late 2012.

Robert E. Beloten
Chair