THOMSON, RHODES & COWIE, P.C. MANAGED CARE LAW UPDATE

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FEDERAL AGENCY ACTIONS

Y2K requirements. HCFA is requiring all Medicare Managed Care Organizations to report on their "Day One" operational readiness. The Plan must include: 1) an inventory of all contingency plan trigger indicators for December 31, 1999 – January 4, 2000; 2) reporting inventory of results to HCFA on a pre-determined schedule; 3) additional coordination with and reporting to the responsible HCFA regional office; and 4) designation of a senior manager to be responsible for submitting reports at the designated times and responding to HCFA requests. Information on HCFA's Day One Plan and reporting requirements can be obtained from HCFA's website at http://www.hcfa.gov/medicare/finalltr.htm.

STATE ACTIONS

Penalties for denial of emergency room claims. An audit by Florida Health Care Administration regulators resulted in fines against 5 Florida HMOs for irregularities in the payment of emergency room claims. The violations were levied against Well Care HMO, Tampa ($85,500.00); Preferred Medical Plan, Coral Gables ($32,000.00); Humana Inc., Miramar ($28,500.00); Physicians Healthcare Plans, Tampa ($26,500.00); and Florida 1st Health Plans, Winter Haven ($21,500.00).

Florida regulators cited the HMOs for, among other things, denial of payment based on lack of information on the patient's condition. Such denials were inappropriate because, under Florida law, payment is required for professional and facility charges necessary to establish whether an emergency condition existed. Other violations included failure to pay emergency room claims within 35 days, as required by state law, and paying non-par providers at less than the Medicaid fee-for-service rate. One HMO, HealthEase Health Plan of Tampa, received a letter stating that a review of 254 randomly selected Medicaid claims showed no violations.

In Washington State, QualMed Washington Health Plan, Inc., agreed to a $250,000.00 fine and will follow new procedures for handling emergency room claims to settle claims brought by the Washington Insurance Commissioner. QualMed allegedly violated the "prudent layperson" standard by refusing to pay certain emergency room claims. The Insurance Commissioner is negotiating with three other carriers over similar allegations.

Ohio Attorney General rules doctor's performance of utilization review does not involve the practice of medicine. In an opinion by the Ohio Attorney General issued August 31, 1999, actions taken by medical directors of HMOs do not constitute the practice of medicine under Ohio law. The Attorney General's opinion was issued at the request of the Ohio State Medical Board in response to numerous complaints pending against HMO physicians. If the actions of HMO physicians in performing utilization review do not constitute the practice of medicine, it appears that the State Medical Board lacks jurisdiction to discipline physicians when their decisions on medical necessity result in injury to the patient. Individuals affected by the decision predict that the opinion, while only advisory, may prompt a legislative response.

Prior issues are available on request. Please direct inquiries to Jerry R. Hogenmiller or L. Jane Charlton, Thomson, Rhodes & Cowie, P.C., Tenth Floor, Two Chatham Center, Pittsburgh, Pennsylvania 15219, (412) 232-3400, TRC_Law@nauticom.net.