

MINUTES

KENTUCKY WORKERS' COMPENSATION REGULATORY ADVISORY COMMITTEE

MEETING DECEMBER 12, 2018

A meeting of the Regulatory Advisory Committee (RAC) was held on December 12, 2018, beginning at 3:00 p.m., in the Oscar Morgan Conference Room at the Department of Workers' Claims, 657 Chamberlin Avenue, Frankfort, Kentucky.

Chief Administrative Law Judge Douglas W. Gott called the meeting to order. The following members present: Douglas W. Gott, John B. Coleman, Chris Davis, Dale Hamblin, Peter Naake, Timothy Feld, Ken Dietz, and Scott M. Miller. Also in attendance was Commissioner Robert Swisher. Judge Gott noted that the meeting is held in accordance with KRS 61.823(4)(a), the Open Meetings statute, and that notice of the meeting was published as required. Minutes of the October 31, 2018 meeting were reviewed. Mr. Hamblin moved approval of the minutes, seconded by ALJ Davis. The minutes were approved as submitted.

Judge Gott updated the committee on the status of the regulation for the continuation of medical benefits. A public hearing will be held January 22, 2019 at 1:00 p.m. in the Oscar Morgan Conference Room at the Department of Workers' Claims regarding the regulation. At that time, the public may present their comments on the proposed regulation. Comments may also be submitted to the Department in writing. Comments will be accepted through the end of January. The Department will provide written responses to any comments received.

Turning to the revisions made to the regulation regarding the drug formulary, Judge Gott requested comments and or suggestions to Section 1 dealing with Definitions, and to Section 2 addressing Purpose and Adoption; no questions or comments were offered.

Discussion of Section 3, Application, Judge Gott noted the Commissioner was inclined to amend subsection (2) to add the following language at the end of the second sentence: "...but may be conducted retrospectively to determine medical reasonableness and necessity. A denial of a "Y" drug based on retrospective utilization review shall apply only to refill prescriptions of that drug after the date of the utilization review." Mr. Nakke urged the Commissioner's continued consideration of a requirement that the carrier notify the claimant and explain to him or her the reason for denial of an "N" drug.

The Commissioner received comments in favor of and in opposition to Section 3(4) dealing with allowance of physician dispensing of medications. The Commissioner invited final written comments on this issue by Wednesday, December 19.

As for Section 4, Preauthorization, questions were raised regarding utilization review and whether it was necessary to add its definition to Section 1 or whether referencing the site was sufficient.

No comments were offered on Section 5, Effective Dates.

At the conclusion of the discussion, Judge Gott explained the goal was to file the regulation by Friday, December 21, 2018 and asked that any comments be filed as quickly as possible. He indicated he would keep the committee apprised of the regulatory process and would be in touch regarding future meetings.

With no other business, ALJ Coleman moved to adjourn, seconded by Mr. Hamblin. The meeting adjourned at 4:03 p.m.