5218.0100 APPLICATION FOR CERTIFICATION.

Subpart 1. **Certification.** Except as provided in part 5218.0200, subpart 4, any person or entity may make written application to the commissioner to provide managed care to injured employees for injuries and diseases compensable under Minnesota Statutes, chapter 176, under a plan certified by the commissioner. To obtain certification of a plan, an application shall be submitted on a form provided by the commissioner which shall include items A to N, and other matters related to parts 5218.0010 to 5218.0900.

A. One clean copy suitable for imaging plus one identical copy of the application must be submitted. Portions of the application which the managed care plan believes is subject to trade secret protection under Minnesota Statutes, section 13.37, must be clearly marked, separated and justified in accordance with part 5218.0800, subpart 2, item B.

B. The plan must provide the information in subitems (1) to (6). An individual may act in more than one capacity:

(1) the names of all directors and officers of the managed care plan;

(2) the title and name of the person to be the day-to-day administrator of the managed care plan;

(3) the title and name of the person to be the administrator of the financial affairs of the managed care plan;

(4) the name, and medical specialty, if any, of the medical director;

(5) the name, address, and telephone number of a communication liaison for the department, the insurer, the employer, and the employee; and

(6) the name of any entity, other than individual health care providers, with whom the managed care plan has a joint venture or other agreement to perform any of the functions of the managed care plan, and a description of the specific functions to be performed by each entity.

C. Each application for certification or application following revocation must be accompanied by a nonrefundable fee of $1,500. If a plan has been provisionally certified under chapter 5218 [Emergency], the application fee shall be $600. Fees for the annual report and changes to the plan as certified are in part 5218.0300.

D. The managed care plan must ensure provision of quality services that meet all uniform treatment standards adopted by the commissioner under Minnesota Statutes, section 176.83, subdivision 5, and all medical and health care services that may be required by Minnesota Statutes, chapter 176.

E. The managed care plan must provide a description of the times, places, and manner of providing services under the plan, including a statement describing how the plan will ensure an adequate number of each category of health care providers is available to give employees convenient geographic accessibility to all categories of providers and adequate flexibility to choose health care

providers from among those who provide services under the plan, in accordance with this chapter and Minnesota Statutes, section 176.1351, subdivisions 1, clauses (1) and (2), and 10.

(1) The managed care plan must include at a minimum, and provide to an employee when necessary under Minnesota Statutes, section 176.135, subdivision 1, the following types of health care services and providers, unless the managed care plan provides evidence that a particular service or type of provider is not available in the community:

(a) medical doctors, including the following specialties:

i. specialists in at least one of the following fields: family practice, internal medicine, occupational medicine, or emergency medicine;

ii. orthopedic surgeons, including specialists in hand and upper extremity surgery;

iii. neurologists and neurosurgeons; and

iv. general surgeons;

(b) chiropractors;

(c) podiatrists;

(d) osteopathic physicians;

(e) physical and occupational therapists;

(f) psychologists or psychiatrists;

(g) diagnostic pathology and laboratory services;

(h) radiology services; and

(i) hospital, outpatient surgery, and urgent care services.

The managed care plan must submit copies of all types of agreements with providers who will deliver services under the managed care plan, and a description of any other relationships with providers who may deliver services to a covered employee. The managed care plan must attach to each standard document a corresponding list of names, clinics, addresses, and types of license and specialties for the health care providers. The managed care plan must also submit a statement that all licensing requirements for the providers are current and in good standing in Minnesota or the state in which the provider is practicing.

(2) The managed care plan must provide for referral for specialty services that are not specified in subitem (1) and that may be reasonable and necessary to cure or relieve an employee of the effects of the injury under Minnesota Statutes, section 176.135, subdivision 1. The insurer remains liable for any health service required under Minnesota Statutes, section 176.135, that the managed care plan does not provide.

F. The managed care plan must include procedures to ensure that employees will receive services in accordance with subitems (1) to (7):

(1) Employees must receive initial evaluation by a participating licensed health care provider within 24 hours of the employee's request for treatment, following a work injury.

(2) In cases where the employee has received treatment for the work injury by a health care provider outside the managed care plan under part 5218.0500, subpart 1, item A, the employee must receive initial evaluation or treatment by a participating licensed health care provider within five working days of the employee's request for a change of doctor, or referral to the managed care plan.

(3) Following the initial evaluation, upon request, the employee must be allowed to receive ongoing treatment from any participating health care provider as the employee's primary treating health care provider in one of the disciplines in units (a) to (e), if the provider is available within the mileage limitations in subitem (7) and the treatment is required under Minnesota Statutes, section 176.135, subdivision 1, is within the provider's scope of practice, and is appropriate under the standards of treatment adopted by the managed care plan or the standards of treatment adopted by the commissioner under Minnesota Statutes, section 176.83, subdivision 5:

(a) medical doctors;

(b) chiropractors;

(c) podiatrists;

(d) osteopathic physicians; or

(e) dentists.

An evaluating provider may also be offered as a primary treating provider.

(4) Employees must receive any necessary treatment, diagnostic tests, or specialty services in a manner that is timely, effective, and convenient for the employee.

(5) Employees must be allowed to change primary treating providers within the managed care plan at least once without proceeding through the managed care plan's dispute resolution process. In such cases, employees must make a request to the managed care plan for a change in their treating health care provider. A change of providers from the evaluating health care provider in subitems (1) and (2) to a primary treating doctor for ongoing treatment is not considered a change of doctor, unless the employee has received treatment from the evaluating health care provider more than once for the injury.

(6) Employees must be able to receive information on a 24-hour basis regarding the availability of necessary medical services available within the managed care plan. The information may be provided through recorded toll-free telephone messages after normal working hours. The message must include information on how the employee can obtain emergency services or other urgently needed care and how the employee can access an evaluation within 24 hours of the injury as required under unit (a).

(7) Employees must have access to the evaluating and primary treating health care provider within 30 miles of either the employee's place of employment or residence if either the

residence or place of employment is within the seven-county metropolitan area. The seven-county metropolitan area includes Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties. If both the employee's residence and place of employment are outside the seven-county metropolitan area, the allowable distance is 50 miles. If the employee requires specialty services that are not available within the stated mileage restriction, the managed care plan may refer the employee to a provider outside of the stated mileage restriction. If the employee is medically unable to travel to a participating provider within the stated mileage restriction, the managed care plan shall refer the employee to an available nonparticipating provider to receive necessary treatment for the injury.

G. The managed care plan must designate the procedures for approval of services from a health care provider outside the managed care plan according to part 5218.0500.

H. The managed care plan must include a procedure for peer review and utilization review as specified in part 5218.0750.

I. The managed care plan must include a procedure for internal dispute resolution according to part 5218.0700 and Minnesota Statutes, section 176.1351, subdivision 2, clause (4), including a method to resolve complaints by injured employees, medical providers, and insurers.

J. The managed care plan must describe how employers and insurers will be provided with information that will inform employees of all choices of medical service providers within the plan and how employees can gain access to those providers. The plan must submit a proposed notice to employees, which may be customized according to the needs of the employer, but which must include the information in part 5218.0250.

K. The managed care plan must describe how aggressive medical case management will be provided according to part 5218.0760 for injured employees, and a program for early return to work and cooperative efforts by the employees, the employer, and the managed care plan to promote workplace health and safety consultative and other services.

L. The managed care plan must describe a procedure or program through which participating health care providers may obtain information on the following topics:

(1) treatment parameters adopted by the commissioner;

(2) maximum medical improvement;

(3) permanent partial disability rating;

(4) return to work and disability management;

(5) health care provider obligations in the workers' compensation system; and

(6) other topics the managed care plan deems necessary to obtain cost-effective medical treatment and appropriate return to work for an injured employee.

The medical director or a designee must document attendance for a minimum of 12 hours of education during the first year, and four hours each year thereafter, covering any of the topics listed

in subitems (1) to (6). The documentation shall be submitted to the commissioner upon request. The medical director or designee must be available as a consultant on these topics to any health care provider delivering services under the managed care plan.

M. The managed care plan must specify any medical treatment standards it has developed for medical services that have not already been prescribed by the commissioner and that are reasonably likely to be used in the treatment of workers' compensation injuries. The managed care plan shall make the standards available for review by the commissioner upon request. All managed care plan health care providers and those providing services under part 5218.0500 shall be governed by these treatment standards and by the standards adopted by the commissioner under Minnesota Statutes, section 176.83, subdivision 5. A managed care plan may not prescribe treatment standards that disallow, in all cases, treatment that is permitted by the commissioner's standards. However, this item does not require ongoing treatment in individual cases if the treatment is not medically necessary, even though the maximum amount of treatment permitted under any standard has not been given.

N. The managed care plan must provide other information as the commissioner considers necessary to determine compliance with this chapter.

Subp. 2. **Notification; approval or denial.** Within 30 days of receipt of an application the commissioner must notify an applicant for certification of any additional information required or modification that must be made. The commissioner must notify the applicant in writing of the approval or denial of certification within 30 days of receipt of the additional information or modification. If the certification is denied, the applicant must be provided, in writing, with the reason for the denial.

Subp. 3. **Review of decision.** Any person aggrieved by a denial of certification by the commissioner may request in writing, within 30 days of the date the denial is served and filed, the initiation of a contested case proceeding under Minnesota Statutes, chapter 14. Following receipt of the administrative law judge's findings and recommendations, the commissioner shall issue a final decision in accordance with Minnesota Statutes, section 14.62. An appeal from the commissioner's final decision and order may be taken to the Workers' Compensation Court of Appeals pursuant to Minnesota Statutes, sections 176.421 and 176.442.

Statutory Authority: *MS s 176.1351*

History: *18 SR 1379; L 1998 c 294 s 7; L 2016 c 119 s 7*

Published Electronically: *September 10, 2018*