



State of New Mexico
**Workers'
Compensation
Administration**

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CASE MANAGEMENT SCOPE OF WORK AND INSTRUCTIONS

The following discussion is intended only for nurse case management services appointed through the New Mexico Workers' Compensation Administration (WCA). Nurse case management appointed through the employer, at the employer's expense, is beyond the scope of this document.

I. Statutory Authority for WCA Case Management

The nurse case management (NCM) program of the New Mexico Workers' Compensation Administration (WCA) obtains its statutory authority from NMSA 1978, §52-4-3 (1990). This provision applies to both Workers' Compensation and Occupational Disease Act claims. The statutory provision provides in relevant part:

A. The director shall establish a system of case management for coordinating the health care services provided to workers claiming benefits under the Workers' Compensation Act or the New Mexico Occupational Disease Disablement Law.

B. As used in this section, "case management" means the ongoing coordination of health care services provided to an injured or disabled worker, including but not limited to:

- (1) developing a treatment plan to provide appropriate health care services to an injured worker;
- (2) systematically monitoring the treatment rendered and the medical progress of the injured worker;
- (3) assessing whether alternate health care services are appropriate and delivered in a cost-effective manner based on acceptable medical standards;
- (4) ensuring that the injured worker is following the prescribed health care plan; and
- (5) formulating a plan for returning to work.

C. The director shall contract with an independent organization to assist with the administration of the provisions of this section.

II. How is the WCA's NCM Program Implemented?

The WCA contracts with independent nurse case management organizations to help the WCA fulfill its statutory authority to conduct the NCM program. Nurse case managers are not employees or agents of the WCA, they are independent contractors.

The WCA NCM program is implemented and supervised through the Medical Cost Containment Bureau (MCC) of the WCA, which assists WCA stakeholders in the delivery of appropriate, timely, efficient and cost-effective medical care to injured workers.

MCC will monitor the NCM process to ensure progress is being made consistent with Section 52-4-3. MCC may terminate or reassign NCM services as it deems appropriate, including for budgetary considerations, following notice to the parties.

III. When is NCM appropriate?

The WCA has adopted a rule to help it implement the NCM program. (See NMAC §11.4.7.12) (2023).) The WCA considers the following factors when determining eligibility of a case for the assignment of a NCM:

(A) severe or complex injury including total loss of limb/amputation, severe injury to multiple body parts or limbs, severe burns over a large part of body, traumatic brain injury, spinal cord injury, reflex sympathetic dystrophy/complex region pain syndrome;

(B) language barrier, including hearing impairment;

(C) a record or pattern of non-compliance with prescribed treatment, care plan or medical appointments;

(D) multiple health care providers, including providers of different disciplines, requiring coordination between them;

(E) inpatient admission lasting longer than five days or multiple admissions or emergency room visits;

(F) failure to reach maximum medical improvement after one year from the date of injury;

(G) psychological issues that complicate provision of services; and

(H) any other reasonable criteria as approved by the director.

IV. How is the NCM process initiated?

Per the WCA rule on NCM, any party may refer a claim to the WCA for NCM case by submitting the appropriate form to the MCC. The form is located on the agency website. In addition, a WCA judge may refer a claim for case management by submitting a written referral to MCC.

Within 20 days of receiving a referral and all supporting documentation, MCC will notify the parties and the judge, if any, of its decision either accepting or denying the referral. If the case is approved for NCM, the MCC assigns the approved cases to an approved WCA contractor.

Any party who objects to the MCC decision must notify the WCA of its objection by filing an application to the director no later than 15 days from service of the MCC decision to appoint a NCM.

The director of the WCA has jurisdiction to resolve any disputes arising during the NCM process. Any party can file an application to the director on the “Application to Director” form located on the WCA website. The director or a director designee may hold a hearing to resolve the parties’ dispute. Depending on the case and the status of proceedings, the assigned WC judge may also hear the parties’ dispute.

V. Important Duties During the NCM Process

Pursuant to NMAC §11.4.7.12(A):

(A) All workers and their legal representatives are required to cooperate with the WCA or its contractor with respect to all reasonable requests for information necessary to the NCM process;

(B) During the NCM process, all employers, insurers, and third-party administrators are required to communicate, cooperate and provide information, without charge, to the WCA or its contractor;

(C) The WCA or its NCM contractor shall report any refusal to cooperate with the director. Failure to provide requested information shall be presumed to be a refusal to cooperate. Any dispute concerning the reasonableness of any request for information may be submitted, in writing, to the director. The determinations of the director concerning the reasonableness of such requests are final;

(D) In any hearing before the WCA, the injured worker's refusal to cooperate in any services may be considered by a workers' compensation judge

on the issues of reasonableness and necessity of medical charges or reasonableness, necessity, or appropriateness of medical treatment; and

(E) The contractor shall avoid conflicts of interest or the appearance of impropriety when performing case management services and utilization review.

VI. What is the role of the NCM appointed by the WCA?

The WCA recognizes the important role the worker's attorney plays as the representative of the injured worker. The WCA also recognizes the sanctity of the physician-patient privilege which protects the ability of the injured worker to have a private examination with their doctor and protects the physician-patient relationship. Balanced against these interests is the WCA statutory authority to implement a NCM program as outlined above.

The general goal of nurse case management is for the NCM to engage with all participants involved in the injured workers' claim activities. This includes coordinating discussions about diagnosis, treatment plans, and appointment scheduling.

Absent a more specific order of the WCA Director or a WC Judge, or the parties' written agreement, the MCC and its assigned NCM will follow these principles during nurse case management:

(A) the NCM may obtain workers' medical records from authorized providers with copies so obtained seasonably and securely transmitted to the worker and the employer - or their attorneys as applicable, and to MCC;

(B) the NCM shall have the right to contact the injured worker, the employer or its insurer or third-party administrator, the parties' legal representatives, and all health care providers involved in the case;

(C) the NCM may schedule, reschedule and coordinate medical appointments including communicating with supporting staff of worker's treating providers, for such limited purpose, and then seasonably update in writing the status of appointments to the worker and the employer - or their attorneys as applicable, and to MCC;

(D) the NCM may only communicate with the worker's treating HCP regarding the worker's medical care in the presence of the worker who shall be provided the opportunity to be present during such communication; a worker who declines to be present during the communication consents to the NCM and HCP discussing worker's medical care in his or her absence;

(E) any substantive communications between the NCM and worker, other than those outlined in (C) and (D) above (which are not considered substantive), shall be through the worker's attorney, if retained, unless pre-authorized in writing by the worker's attorney; and

(F) the NCM shall include all parties and/or the injured worker's attorneys on any written communications regarding NCM services, including all formal status reports provided by the NCM to the parties or MCC.

VII. Additional Expectations on the NCM

In addition to the directives above, the WCA's contractor and its NCM's are to abide these principles:

(A) The contractor and its NCM shall avoid all conflicts of interest.

(B) The contractor and its NCM shall abide by legal or other limitations set by the WCA, including by the director or a WC judge.

(C) The primary responsibilities of the NCM are to facilitate effective communication between the worker and the HCP and ensure the timely and appropriate delivery of health care to the injured worker. To this end, the NCM may:

- (1) attend medical appointments as needed;
- (2) bring treatment options or available restricted work opportunities to the attention of the HCP for consideration;
- (3) bring factual information to the HCP for consideration;
- (4) facilitate the answering of questions by and between the worker and the HCP;
- (5) seek clarification from the HCP to ensure the appropriate and reasonable coordination of medical treatment is provided;
- (6) provide support and facilitate in obtaining prior authorization for reasonable and necessary medical treatments;
- (7) facilitate travel arrangements;
- (8) assist with medication management;
- (9) gather medical records;
- (10) provide assistance for the injured worker's return-to-work; and
- (11) Offer bilingual medical case management services as required, including interpretive assistance if necessary.

(D) All interactions with payer representatives will be documented and reported in writing via email to all parties involved and included in the NCM's detailed report of activities.

(E) The Contractor shall notify the assigned adjuster regarding medications, tests and treatment prescribed by an HCP for preauthorization and/or approval.

(F) Within one month of receiving the NCM assignment, the NCM will review and assist in gathering all relevant medical records to determine the patient's past medical history; develop a comprehensive treatment plan to coordinate the care of the injured worker; and establish a strategy to meet the desired treatment goals which may include achieving maximum medical improvement and/or facilitating the worker's return to employment goal.

(G) The NCM shall report any non-compliance issues or roadblocks to meeting medical case management goals to MCC.

(H) The Contactor shall report any refusal to cooperate to MCC.

(I) By the 10th of each month, submit to MCC a monthly status report detailing all activities related to each assigned case including appropriate reporting and coordination between the parties and health care providers. Attach the previous month's detailed billing submissions for each assigned case.

(J) The Contractor and its NCM and MCC will hold quarterly meetings to review the status of medical case management to assess progress and if goals are being met or if closure is needed.

VIII. Conduct of the Parties During NCM Activities

The WCA expects all persons participating in the NCM process to be professional and courteous, including in any interaction with the MCC and WCA.