West Virginia
Secretary of State
Ken Hechler
Administrative Law Division

Form #1

Do Not Mark In This Box

FILED

Oct 10 4 08 PM '97

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Bureau of Employment Programs, Workers' Compensation Division **TITLE NUMBER:** 85

RULE TYPE: * Exempt Legislative; **CITE AUTHORITY** W. Va. Code §§21A-2-6(1), 21A-2-6(2) & 21A-2-6(14); 21A-2-19; 21A-3-7(b) & 21A-3-7(c) and 23-1-1

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: N/A

TITLE OF RULE BEING AMENDED: N/A

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 29

TITLE OF RULE BEING PROPOSED: Outpatient Management of Chronic Pain

* Per W. Va. Code §21A-3-7(c), this rule is not subject to Legislatiive review

DATE OF PUBLIC HEARING: November 18, 1997 **TIME:** 10:00 a.m.

LOCATION OF PUBLIC HEARING: Charleston Cvic Center, Room 206
Charleston, W. Va.

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

Carol A. Egnatoff, Senior Counsel
Legal Services Division
Post Office Box 3922
Charleston, W. Va. 25339-3922
(304) 926-5130

The Last Day For Written Comments is December 1, 1997

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

$4.80

Summary of Proposed Rule

Outpatient Management of Chronic Pain

This proposed new rule defines chronic pain and describes outpatient management of such pain.

This proposed new rule implements the development of guidelines by the Health Care Advisory Panel relating to health care service for outpatient management of chronic pain.

This proposed new rule sets forth the minimum credentials required of medical practitioners who treat chronic pain.

This proposed new rule establishes criteria for the treatment of chronic pain, for the purpose of assuring that the medical care provided to the injured worker is indicated and consistent with the best health care information available.

FISCAL NOTE FOR PROPOSED LEGISLATIVE RULES

Rule Title: Title 85 Series 29: Outpatient Management of Chronic Pain

Type of Rule: __X__ Legislative Exempt ___Interpretive ___Procedural

Agency: Bureau of Employment Programs
Workers' Compensation Division

Address: 112 California Avenue

Charleston, WV 25305

1. Effect of Proposed Rule

	Annual		Fiscal Year		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	Unknown	Unknown	Unknown	Unknown	Unknown
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER: Benefit payments	Unknown	Unknown	Unknown	Unknown	Unknown

2. Explanation of above estimates:

Implementation of this rule will not require any change in general and administrative expenses. This rule establishes specific, standardized guidance for treatment of a medical condition. Because it is unknown to what extent current treatments fall above or below or outside these proposed standards, it is unknown what the costs and savings will be in benefit payments.

3. Objectives of this rule:

This rule establishes the policy and procedure of the Workers' Compensation Division related to the outpatient management of chronic pain.

Rule Title: Title 85 Series 29: Outpatient Management of Chronic Pain

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

It is expected that this rule will contribute toward more efficient, thorough, and informed health care management by the Workers' Compensation Division, and will result in savings in medical and rehabilitation costs.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

It is expected that with lower claims costs, employers will receive lower premium rates.

C. Economic Impact on Citizens/Public at Large.

It is expected that better health care management will contribute toward better health care of injured workers.

Date: 10/10/97

Signature of Agency Head or Authorized Representative

William F. Vieweg

William F. Vieweg
Commissioner, Bureau of Employment Programs

TITLE 85

LEGISLATIVE RULE

WORKERS' COMPENSATION DIVISION

SERIES 29

OUTPATIENT MANAGEMENT OF CHRONIC PAIN

§85-29-1. General.

1.1 Scope. -- This rule establishes the policy and procedure of the Workers' Compensation Division related to the outpatient management of chronic pain.

1.2. Authority. -- W.Va. Code §§21A-2-6(1), -6(2) & -6(14); 21A-2-19; 21A-3-7(b) & -7(c) and 23-1-1. Pursuant to W.Va. Code, §21A-3-7(c), rules adopted by the compensation programs performance council and the commissioner are not subject to legislative approval as would otherwise be required under W.Va. Code, §29A-3-1 et seq. Public notice requirements of that chapter and article, however, must be followed. Pursuant to Enrolled Committee Substitute for House Bill 4030, Regular Session, 1994, the Department of Commerce, Labor and Environmental Resources was abolished. Pursuant to that same bill and to Executive Order No. 5-94 by the Governor, the Commissioner of the Bureau of Employment Programs is empowered to promulgate rules and regulations without the consent or approval of a departmental secretary.

1.3. Filing Date. -- _____

1.4. Effective Date. -- _____

§85-29-2. Purpose of Rule.

The purpose of this rule is to implement the provisions of W.Va. Code, §23-4-3(a)(1), §23-4-3a, §23-4-3b, §23-4-3c which relate to the development of guidelines for the provision of health care services. West Virginia Code § 23-4-3b(a) provides that the Health Care Advisory Panel shall "establish guidelines for the health care which is reasonably required for the treatment of the various types of injuries and occupational diseases within the meaning of section three [§23-4-3] of this article." This rule is intended to insure that the care which is provided to claimants is medically indicated and consistent with the best health care information available.

§85-29-3. Definitions.

As used in this legislative rule, the following terms have the stated meanings unless the context of a specific use clearly indicates another meaning is intended

3.1. "Acute pain" means pain experienced as the result of injury, disease, or operative procedure. Treatment usually consists of medications, surgical repair, and/or physical medicine therapies. Care may be provided in the office, clinic, or hospital setting.

3.2. "Bier block" means the instillation of medication into the venous system of a limb for anesthetic or therapeutic purposes; venous circulation is occluded with a tourniquet to retain medication in the veins of the limb.

3.3. "Chronic pain" means pain lasting more than three months. The cause of the pain is often unknown and may not be linked to an actual physiological event. Chronic pain complaints are usually accompanied by other psychophysiological disorders such as depression, weight gain or loss, sleep disorder and digestive disorder. A nurse case manager must coordinate care for claimants experiencing chronic pain, including intervention by a pain management specialist early in the treatment process and involvement of an interdisciplinary group after six (6) months.

3.4. "Commissioner" means the Commissioner of the Bureau of Employment Programs.

3.5. "Division" shall refer to the Workers Compensation Division of the Bureau of Employment. Programs.

3.6. "HCAP" means the Health Care Advisory Panel.

3.7. "Interdisciplinary" means including representation from two or more health care fields.

3.8. "Medical Services Unit" or "Office of Medical Services" means a group of Division personnel designated to deal with health care issues; such personnel may be supplemented with health care personnel providing services on a contract or other basis.

3.9. "Nerve block" means injection of a local anesthetic medication in proximity to a nerve or nerve plexus to block nerve transmission.

3.10. "Nurse Case Manager" means a duly licensed registered professional nurse authorized by the Division to coordinate health care and rehabilitative services for injured workers.

3.11. "Pain" refers to a complex unpleasant sensory and emotional experience associated with actual or potential tissue damage or which may just be a subjective experience described in terms of such damage.

3.12. "Pain management specialist" means a licensed physician with specialized training and experience in the diagnosis and/or treatment of chronic pain.

3.13. "Steady dose" refers to the amount and frequency of pain relief medication that is required to maintain optimum pain relief, once the dosage of such medication has become fixed or nearly fixed in amount and frequency.

3.14. "Trigger point injection" means placement of a needle into a myofascial space with or without injection of medication.

85-29-4. General.

4.1. All practitioners who treat chronic pain need to address goals in three major life areas; physical, social and psychological.

4.1.1. Physical goals include: analgesia, early mobility, functional restoration and increased exercise tolerance, strength and range of motion.

4.1.2. Social goals include: a positive expectation for recovery from family and support systems; avoiding identification with disabled family prototypes; resistance to the negative reinforcement from interested other parties; and recognition of the deleterious effects of the disability lifestyle.

4.1.3. Psychological goals include: dealing with grief and loss over altered function and coping with chronic distress and a changed lifestyle; maintaining a positive attitude toward recovery; focusing motivation; appreciating primary, secondary and tertiary gains; and obtaining diagnosis and treatment for any psychiatric diagnosis.

4.2. Emergency conditions such as Complex Regional Pain Syndrome (Reflex Sympathetic Dystrophy) require immediate consultation with a pain specialist and initiation of treatment without delay.

4.3. In contusion and sprain/strain cases, and in non-surgical disk cases, claimants who are being considered for injections for the treatment of chronic pain, but who have not had a trial of physical medicine, including exercise and/or manipulation, will be required to be evaluated by a physical medicine practitioner. The physical medicine practitioner will determine whether a 30 day regimen of physical medicine in conjunction with initiation of chronic pain therapy might provide full or partial relief prior to initiating a series of injections.

4.4. When chronic pain patients do not respond to initial specialist-directed efforts, a nurse case manager will be assigned to coordinate the interdisciplinary pain management effort. The nurse case manager's report will include an assessment as to the benefits of chronic pain management, such as the likelihood that the claimant will be able to return to work. A psychiatric evaluation must be part of the assessment process. Psychiatric conditions must be evaluated and under treatment as indicated before use of long-term narcotics or implantable devices will be authorized by the Workers' Compensation Division.

4.5. Claimants who have injuries greater than six (6) months old with continued symptoms, and who are not actively being treated for chronic pain may be eligible for further treatment or management of pain, if procedures not previously offered are now available and may provide full or partial pain relief. Such cases require an assessment by a nurse case manager and an interdisciplinary file review before the claim will be reopened for pain management

§85-29-5. Injections.

The following criteria must be met before the Division will authorize the use of injections by the pain management specialist for the treatment of pain:

5.1. The claim file must document objective physical signs and subjective symptoms which support the use of the proposed procedure.

5.2. When performing a "series" of injections, there must be documentation of measurable physical, psychological or vocational improvement before performing the next injection. Treatment of low back pain requires that a completed Division back form be in the claimant's file.

5.3. Active, not passive, physical medicine and home exercises prescribed after documented demonstration by and return demonstration to the prescribing provider are to be a part of any injection or procedure-based treatment plan. A report from the provider must be sent to the physician and a copy to the claims manager after every fourth visit. If physical medicine is not recommended, the physician must explain why it is not going to be used.

5.4. If a surgical spine lesion exists that shows no immediate neurologic danger, cervical epidural steroids may be considered prior to surgery. The surgeon and the pain management specialist should work collaboratively in such cases. If epidural injections fail to provide relief or if new neurological deficits develop, surgical evaluation should be scheduled promptly. The treating physician is responsible for referring any suspected surgical lesion promptly to a surgeon.

5.5. The treatments under each of the following categories are deemed appropriate. The order in which the treatments within each category are listed is not controlling of the treatment plan except as indicated.

85-29-6. Criteria for use of injections for the purpose of management of pain in specific regions of the body.

6.1. HEAD AND NECK PAIN

6.1.1. Peripheral Nerves - including occipital, greater and lesser, auricular, supraorbital, maxillary branch of V, mandibular branch of V, and others)

6.1.1.1. Six (6) blocks over three (3) months in office, or in ambulatory clinic if fluoroscopy is required;

6.1.1.2 Neurolysis/ Denervation by cryotherapy, chemical means, radiofrequency, or surgical intervention if good response not sustained

6.1.2. Facial Pain - Sympathetically maintained

6.1.2.1. Sphenopalatine ganglion block - six (6) blocks over three (3) months;

6.1.2.2. Stellate ganglion block - six (6) blocks over three (3) months

6.1. 3. Intrathecal Opioids - if all other conservative treatments fail

6.1.3.1 A trial is required. Refer to specific guidelines.

6.1.3.2. A second opinion is required before implant.

6.1.4. Myofascial Pain

6.1.4.1 Trigger point injections, no more than six (6) points or no more than six (6) occasions in three (3) months.If authorization for trigger point injections are requested more than twice in 1 year or 4 cycles total, the claim will be assigned a nurse case manager. Authorization is at the discretion of the Health Care Advisory Panel or its subpanel(s) after a review of the case and focus on the claimant's work record.

6.1.4.2. Home exercise and physical medicine is required, in combination with trigger point injections.

6.1.5. Cervical Facet Mediated Pain

6.1.5.1. No more than 4 injections over six (6) months

6.1.5.2. Physical medicine is required in combination with injections.

6.1.5.3. Neurolysis/ Denervation by cryotherapy, chemical means, radiofrequency or surgical intervention if good response to anesthetic injections not sustained

6.1.6. Cervical Radiculopathy

6.1.6.1. Cervical epidural steroids, no more than four (4) injections in a six (6) month period, if surgery in accordance with the appropriate Workers' Compensation treatment guideline is not a medically viable option or if surgery has been attempted and failed to provide relief;

6.1.6.2. Cervical epidural infusion

6.1.6.3. If physical medicine alone fails in 30 days, suprascapular nerve block should be considered.

6.1.6.4. Spinal cord stimulation if other treatments fail. See specific guidelines.

6.2. SHOULDER AND UPPER EXTREMITY

6.2.1. Adhesive Capsulitis

6.2.1.1. Physical medicine alone should be used initially;

6.2.1.2. If physical medicine alone fails, distention by injection or a local nerve block may be performed combined with a follow-up exercise program.

6.2.2. Subdeltoid Bursitis, Olecranon Bursitis - No more than three (3) injections over six (6) months.

6.2.3. Epicondylitis - No more than three (3) injections over six (6) months.

6.2.4. Myofascial Pain

6.2.4.1. Trigger point injections, no more than six (6) points or no more than six (6) occasions in three (3) months;

6.2.4.2. If trigger point injections need to be repeated more than twice in (one) 1 year or for more than four (4) cycles total, a nurse case manager will be assigned to the claim. Authorization is at the discretion of the Health Care Advisory Panel or its subpanel(s) after a review of the claimant's work record;

6.2.4.3. Home exercise and physical medicine is required in combination with trigger point injections.

6.2.5. Phantom Pain or Stump Pain

6.2.5.1. Stellate ganglion block, up to six (6) times over a three (3) month period;

6.2.5.2. Cervical epidural catheter with infusion, for not more than four (4) weeks;

6.2.5.3. Spinal cord stimulation per specific guidelines if the above therapies fail.

6.2.6. Complex Regional Pain Syndrome (Reflex Sympathetic Dystrophy)

6.2.6.1. Referral to specialist made immediately upon diagnosis;

6.2.6.2. Cervical epidural infusion in conjunction with a program of physical medicine therapy of no more than four (4) weeks duration;

6.2.6.3. Spinal cord stimulation in accordance with specific guidelines;

6.2.6.4. Stellate ganglion block, up to twelve (12) times during a three (3) month period;

6.2.6.5. Bier block, up to six (6) times over a three (3) month period.

6.2.7. Peripheral Nerve Injury

6.2.7.1. Nerve block, up to six (6) times over a three (3) month period;

6.2.7.2. Bier blocks, up to six (6) times over a three (3) month period;

6.2.7.3. Cervical epidural infusion with physical medicine therapy of no more than four (4) weeks duration.

6.2.7.4. Spinal cord stimulation in accordance with specific guidelines.

6.2.8. Carpal Tunnel Syndrome Nerve block, up to six (6) times over a three (3) month period, if surgery in accordance with the appropriate Workers' Compensation treatment guideline is not a medically viable option or if surgery has been attempted and failed to provide relief.

6.2.9. Other Causes of Extremity Pain - Treatment on a case by case basis, subject to review by the Health Care Advisory Panel or its subpanel(s), subject to review by the Health Care Advisory Panel or its subpanel(s).

6.3. THORACIC AND CHEST WALL PAIN

6.3.1. Thoracic Disc Syndrome

6.3.1.1. Thoracic epidural steroids injection, up to four (4) times over six (6) months, if surgery in accordance with the appropriate Workers' Compensation treatment guideline is not a medically viable option or if surgery has been attempted and failed to provide relief;

6.3.1.2. Thoracic epidural infusion, accompanied by physical medicine therapy, if epidural steroids fail.

6.3.2. Intercostal Neuralgia

6.3.2.1. Intercostal nerve block with local steroids, up to four (4) times over six (6) months;

6.3.2.2. Thoracic epidural steroids, up tp four (4) times over six (6) months;

6.3.2.3. Neurolytic intercostal injection if good but nonsustained improvement with steroid injections;

6.3.2.4. Spinal cord stimulation as per specific guidelines

6.3.3. Costochondritis

6.3.3.1. Injection of joint, up to four (4) times over six (6) months;

6.3.3.2. Concurrent treatment by physical medicine is required.

6.4. ABDOMINAL PAIN

6.4.1. Traumatic Pancreatitis

6.4.1.1. Celiac plexus blocks, up to six (6) times over six (6) months;

6.4.1.2. Neurolytic celiac plexus blocks if a good but unsustained response results from celiac plexus blocks with local anesthetic;

6.4.1.3. Intrathecal opioids - See specific guidelines.

6.4.2. Post Hernia Nerve Entrapment Injection of involved nerve, up to six (6) times over three (3) month period

6.4.3. Peripheral Nerve Involvement

6.4.3.1. Injection of ilioinguinal, genitofemoral, iliohypogastric, or other peripheral nerves, up to six (6) times over three (3) months;

6.4.3.2. Spinal cord stimulation in accordance with specific guidelines.

6.4.4. Pelvic/Rectal/Penile/Vulvar Pain

6.4.4.1. Superior Hypogastric Plexus block, up to four (4) times over a three (3) month period;

6.4.4.2. Intrathecal opioids. See specific guidelines ***

6.4.4.3. Peripheral nerve block as above

6.5. LOW BACK - LUMBAR PAIN

6.5.1. Lumbar Facet Joint Syndrome

6.5.1.1. Injection of facets, up to four (4) times over a six (6) month period, with physical medicine or home exercise. If this needs to be repeated more than twice in one (1) year or for more than four (4) cycles total, a nurse case manager will be assigned to the claim. Authorization is at the discretion of the Health Care Advisory Panel or its subpanel(s) after a

review of the case and the claimant's work record.

6.5.1.2. Neurolysis/ Denervation by cryotherapy, chemical means, radio-frequency, or surgical intervention if complete pain relief following injections is not sustained

6.5.2. Sacroiliitis - Injection of joint with a local anesthetic and steroid, up to four (4) times over over six (6) month period.

6.5.3. Piriformis Syndrome - Injection of muscle with a local anesthetic and/or steroid, in conjunction with physical medicine. No more than four (4) injections over a six (6) month period.

6.5.4. Post Laminectomy Syndrome /Adhesive Arachnoiditis/Spinal Stenosis/ Failed Fusion/Intractable Radiculo-pathy/ Coccydynia

6.5.4.1. Lumbar or caudal epidural steroids, up to four (4) injections over six (6) months;

6.5.4.2. Spinal cord stimulation - see specific guidelines;

6.5.4.3. Intrathecal opioids - see specific guidelines;

6.5.4.4. Trigger point injections, no more than six (6) points or no more than six (6) occasions in three (3) months;

6.5.5. Myofascial Pain - Trigger points, no more than six (6) points or no more than six (6) occasions in three (3) months.

6.6. LOWER EXTREMITY

6.6.1. Lumbar Radiculopathy

6.6.1.1. Lumbar epidural steroids, up to four (4) injections over a six (6) month period, in conjunction with physical medicine, if surgery in accordance with the appropriate Workers' Compensation treatment guideline is not a medically viable option or if surgery has been attempted and failed to provide relief. If this needs to be repeated more than twice in one (1) year or four (4) cycles, a nurse case manager will be assigned to the claim. Authorization is at the discretion of the Health Care Advisory Panel after a review of the case and the claimant's work record.

6.6.1.2. Documented interval improvement

6.6.1.3. Spinal cord stimulation - see specific guidelines.

6.6.2. Complex Regional Pain Syndrome (Reflex Sympathetic Dystrophy)

6.6.2.1 Referral to a specialist immediately upon diagnosis;

6.6.2.2. Lumbar sympathetic plexus block, up to twelve (12) times over a three (3) month period;

6.6.2.3. Lumbar epidural infusion with analgesic agents, in conjunction with physical medicine, for up to four (4) weeks;

6.6.2.4. Bier block, up to six (6) injections over a three (3) month period;

6.6.2.5. Spinal cord stimulation - see specific guidelines.

6.6.3. Phantom Limb Pain/Stump Pain

6.6.3.1. Lumbar sympathetic plexus block, up to six (6) injections over a three (3) month period;

6.6.3.2. Lumbar epidural infusion with analgesic agents, in conjunction with physical medicine therapy, up to four (4) weeks;

6.6.3.3. Spinal cord stimulation - see specific guidelines.

6.6.4. Peripheral Nerve Injury, including saphenouse, femoral or sciatic nerves

6.6.4.1. Nerve block, up to six (6) injections over a three (3) month period;

6.6.4.2. Bier block, up to six (6) injections over a three (3) month period;

6.6.4.3. Lumbar epidural infusion with analgesic agents, in conjunction with physical medicine, for up to four (4) weeks;

6.6.4.4. Spinal cord stimulation - see specific guidelines.

6.6.5. Greater Trochanteric Bursitis - Up to three (3) injections with a

local anesthetic and a steroid over a three (3) month period.

6.6.6 Meralgia Paraesthetica - Injection of lateral femoral cutaneous nerve with a local anesthetic agent, up to six (6) injections over a three (3) month period.

6.6.7. Myofascial Pain - Trigger point injections, no more than six (6) points or no more than six (6) occasions in three (3) months.

6.6.8. Other Causes of Extremity Pain - Treatment will be authorized by the Health Care Advisory Panel or its subpanel(s) on a case by case basis.

6.7. CANCER PAIN

Injury related causality must be established prior to authorization for pain management. A nurse case manager will be assigned to claims involving treatment of cancer pain. Unlike treatment for other types of pain, intrathecal opioids for treatment of cancer pain will not require psychiatric evaluation or a second opinion. Guidelines for specific therapies follow.

6.7.1 Long-Term Opioid Use-The use of long-term oral, rectal, or transdermal opioid therapy in the non-malignant claimant is complex and should only be considered in selected claimants, including, but not limited to, claimants with diagnoses of failed back surgery syndrome, Complex Regional Pain Syndrome (Reflex Sympathetic Dystrophy), inoperable spinal lesions and spinal stenosis, or plexopathies. Other diagnoses will be considered on a case by case basis. The following factors are to be addressed in writing in any report recommending the use long-term opioid therapy:

6.7.1.1. If low dose opioid therapy has not provided at least partial analgesia, then long-term opioid therapy is not an option.

6.7.1.2. The goal of long-term opioid therapy is not complete analgesia. The efficacy of long term opioid therapy is measured by improvement in the claimant's social and physical function.

6.7.1.3. This therapy should be considered only after all other reasonable attempts at analgesia have failed. Opioid therapy should never be a first line treatment.

6.7.1.4. A history of substance abuse in the injured worker or his or her family (alcohol or other drugs), even if remote, should be regarded as a relative contraindication. If a history of substance abuse is obtained and the choice to use long-term opioid therapy is made despite such history, an appropriate consultation and plan to prevent relapse must be in place before prescribing of opioids.

6.7.1.5. Pregnant claimants are not candidates for long-term opioid therapy. Women claimants of child-bearing age are to be advised of the risks to a fetus should pregnancy occur during opiod therapy.

6.7.2. If the decision is made to initiate long-term opioid therapy, the following must be part of the program:

6.7.2.1. Psychiatric - A psychiatric evaluation of the claimant for psychiatric disorders and potential for substance abuse must precede the decision to carry out long-term opioid therapy, and a copy of the evaluation must be submitted with the request to initiate opiod therapy.

6.7.2.2. A written contract between the claimant and the pain management specialist must be established at the onset of long-term drug therapy. The claimant must agree that: (1) a single practitioner will be responsible for prescribing all medication for pain control; (2) the claimant will not obtain prescriptions from physicians other than the pain management specialist; (3) after an initial six month period of initial dose titration, only one dose escalation per three month period will be allowed; and (4) the claimant will not consume alcohol or other medications except as approved by the pain management specialist.

6.7.2.3. Initial long term opiod therapy must be prescribed by a pain management specialist; once therapy has reached the "steady dose" level, the attending physician *may* resume medical management.

6.7.2.4. The claimant will be monitored by a Nurse Case Manager during the period when a "steady dose" is being established; the pain management specialist or the attending physician must reevaluate

the claimant every 60-90 days after the "steady dose" has been reached.

6.7.2.5. Claimants must give informed consent before long-term opioid therapy is initiated; consent must include recognition of the risks of psychological dependence, cognitive impairment and long-term physical side-effects.

6.7.2.6. In order for long-term opioid therapy to continue, there must be documentation of improvement in the social and physical functions, as assessed and documented through home visits by a Nurse Case Manager; written documentation must be provided to the attending physician and pain management specialist. Specific assessment tools must be used such as interview of significant others, pain drawing comparisons, quality of life and social functioning checklist comparisons.

6.7.2.7. Reassessment by a pain management specialist selected by WV Workers' Compensation will be be done annually for claimants maintained on opioids.

6.7.2.8. Every three years, a multidisciplinary team at the Workers' Compensation Division, or designated by the Division or by the Health Care Advisory Panel, must review the treatment plan to determine the appropriateness of care. The Division or the Panel may call for more frequent review if the use of narcotic medication increases.

6.7.2.9. Evidence of acquisition of opioids from other physicians, uncontrolled increases in dose requirements, drug hoarding, abuse of alcohol or other drugs, conviction of a crime related to drug possession or trafficking, or other behaviors in violation of the narcotic contract should be followed by drug tapering and discontinuation of opioid maintenance therapy.

6.7.3. Implantable Devices: Use of intrathecal pumps and spinal cord stimulators will only be authorized when other treatments of extremity, back or neck pain, such as pharmacological, physical, or psychological therapy, have failed or are not acceptable to the claimant

6.7.3.1. The procedure is undertaken only after careful physical and psychiatric screening. A psychiatric clearance will be performed prior to implant, to rule out any untreated psychiatric problems and to enhance the efficacy of the device.

6.7.3.2. In the absence of a documented physiological problem, authorization for implantable pain control devices is at the discretion of the Health Care Advisory Panel or its subpanel(s) after a review of the case and focus on the claimant's work record

6.7.3.3. An untreated substance abuse problem prior to implantation of the proposed device will be sufficient reason to deny the request for the implantable device, notwithstanding other physical or psychological criteria.

6.7.3.4. An implantable device will not be authorized until a second opinion is given by a physician with credentials to implant similar devices. The second opinion may be based upon a review of the claimant's file, or by an independent medical evaluation; either evaluation must be documented in writing. The referral of the claimant or claim file for the second opinion must be arranged through the Office of Medical Services.

6.7.4. Procedure Guides for Implantable Devices.

6.7.4.1. Implantation of devices will be authorized only at facilities which meet the following criteria: (1) a physician trained in residency or by "hands-on" continuing medical education training will perform the procedure; (2) all technical support, computers and ancillary personnel, and a "stand-by" surgical specialist deemed necessary for the specific case must be in place before the procedure begins.

6.7.4.2. The implanting physician will be responsible for all management of the implantable device until such time that another physician credentialled in the management of like devices accepts the claimant.

6.7.4.3. The necessary "in-home" support must be authorized by the Division and scheduled prior to implantation of the device.

6.7.4.4. Both intrathecal pumps and dorsal column stimulators must have a successful trial period before the permanent device is placed. The trial period for the pump will be no less than two days. The trial period for the stimulator will be no less than three days as an outpatient. There must be at least a 50% improvement in objective and subjective findings demonstrated prior to permanent implantation.

6.7.5. Contraindications for Implantable Devices. The following are contraindications for an implantation:

6.7.5.1. allergies or hypersensitivity to the drug being used;

6.7.5.2. life expectancy of less than three (3) months;

6.7.5.3. body size is insufficient to support the weight and bulk of the device;

6.7.5.4. less than 50% relief is seen with trial stimulation or intrathecal device;

6.7.5.5. the claimant does not perceive the trial implantation as pleasant, or side effects are intolerable;

6.7.5.6. the claimant has an active coagulopathy;

6.7.5.7. the claimant has a localized or disseminated infection;

6.7.5.8. the claimant has a demand cardiac pacer or may need one relatively soon (for stimulator only);

6.7.5.9. the claimant has an untreated substance abuse problem;

6.7.5.10. no physiological problem has been identified;

6.7.5.11. the physician requesting the procedure is not adequately trained or experienced in the procedure;

6.7.5.12. appropriate surgical coverage necessary to handle any complications is not available before beginning the procedure.

6.7.6. Myeloscopy in Chronic Pain Management. Myeloscopy procedures are to be reviewed on a case-by-case basis by the medical services unit before authorization can be considered.

Cecil H. Underwood
Governor

William F. Vieweg
Commissioner

West Virginia Bureau of Employment Programs
• Job Service/Job Training Programs • Labor Market Information
• Unemployment Compensation • Workers' Compensation
an equal opportunity/affirmative action employer

October 10, 1997

The Honorable Ken Hechler
Secretary of State
Office of the Secretary of State
Main Capitol Building
Charleston, WV 25305

Dear Secretary Hechler:

RE: Approval of Final Filing of Exempt Legislative Rule
"Outpatient Management of Chronic Pain"
85 CSR 29

Pursuant to West Virginia Code § 5F-2-1(b)(2), the Bureau of Employment Programs is not part of an executive department of state government and is not subject to the control of a departmental secretary.

Pursuant to West Virginia Code §§ 21A-2-6 and 23-1-1, the Commissioner of the Bureau of Employment Programs has the authority to promulgate rules that have been approved by the Compensation Programs Performance Council pursuant to West Virginia Code §21A-3-7.

Accordingly, please accept this letter as my formal approval for the initial filing of the above designated exempt legislative rule.

Sincerely,

William F. Vieweg
Commissioner

FILED
OCT 10 4 08 PM '97
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Legal Services Division
Post Office Box 3922, Charleston, West Virginia 25339-3922 • http://www.state.wv.us/bep
Offices located at 4700 MacCorkle Avenue, S.E. • Telephone 304/926-5130 • Facsimile 304/926-5414