

CHAPTER 1

GENERAL INFORMATION

A. WORKERS' COMPENSATION SYSTEM

The Ohio workers' compensation system consists of two state agencies: The Industrial Commission of Ohio (IC) and the Ohio Bureau of Workers' Compensation (BWC). Ohio Revised Code (R.C.) chapters 4121 and 4123 govern these agencies, respectively.

The workers' compensation system includes state-fund and self-insuring employers. BWC processes state-fund claims. Employers with more than 500 employees may apply for self-insurance. Today, 30 to 35 percent of Ohio's workforce is covered by self-insurance. Self-insuring employers process their workers' compensation claims and are monitored by BWC and the IC.

B. BUREAU OF WORKERS' COMPENSATION (BWC)

BWC is the administrative branch of the workers' compensation system. It is a self-supporting, exclusive state-fund insurance system. As an exclusive state fund, BWC sells workers' compensation insurance policies directly to Ohio employers.

BWC is committed to delivering quality services to injured workers and employers. In each customer service office, customer service teams comprised of medical, rehabilitation and claims specialists, handle claims management. Conversely, employer service specialists and account representatives are available to work with the employers assigned to the customer service office.

BWC operates 15 customer service offices statewide. Please visit www.ohiobwc.com for complete listing and location. Centrally located specialized teams handle out-of-state/out-of-country, bankrupt self-insured, PTD, Death and BWC/IC employee claims. Seven Columbus-based teams process medical-only claims.

BWC processes claims and pays medical and compensation benefits. In addition, the agency administers safety programs to help prevent work-related accidents. Rehabilitation services also are available to assist injured workers in returning to gainful employment safely and efficiently.

C. BWC BOARD OF DIRECTORS

In response to House Bill 100, an independent board of directors was created to provide oversight and direction for BWC operations and investments. The board of directors consists of eleven non-legislative members, appointed to represent the interests of Ohio workers, employers and the public at large. The board also includes members with professional expertise in financial accounting, investments and securities and actuarial management.

The first official meeting of the board was held on August 23, 2007.

D. INDUSTRIAL COMMISSION (IC)

The IC is the adjudicatory branch of the workers' compensation system. In addition to establishing adjudicatory policies, the IC has original jurisdiction on claims matters, such as determining levels of disability and resolving disputed claims issues. The IC is comprised of three hearing levels: district, staff and the IC. The latter is a governor-appointed, three-member board representing employers, employees and the public. The IC has five regional offices

located in Akron, Cincinnati, Cleveland, Columbus and Toledo. Additionally, 7 district offices are located in, Cambridge, Dayton, Lima, Logan, Mansfield, Portsmouth, and Youngstown.

E. CLAIM NUMBER IDENTIFICATION

1. Current numbering scheme

BWC's claims numbers have a two-digit prefix, followed by six digits (e.g., 97-123456). The two-digit prefix corresponds to the year on the First Report of Injury. If the date of injury changes, as is sometimes the case in occupational disease (OD) claims, the claim number does not change. This claim numbering system does not differentiate between lost-time and medical-only claims. The third digit indicates how BWC was notified. If the third digit is 3,4,5,6 or 7 then the claim was filed electronically via 148 from an MCO. If the third digit is 8 or 9 then the claim was filed via www.bwc.ohio.gov or submitted to a BWC service office.

2. Previous claim numbering scheme

Following are claims and descriptions for assignments issued prior to the current claim numbering scheme. Please note the claim number does not necessarily reflect the claim status.

Type of Claim	Description	Sample
Medical Only (State Fund)	Two alpha prefix, begins with "M"	MT234561
Lost Time (State Fund)	Prefix is year of injury	92-1234
Old State-Fund Lost Time	Prefix is 1 or 2	2-012345
Public Employee Medical Only	Prefix is "PEM"	PEM12345
Public Employee Lost Time	Prefix is "PEL"	PEL12345
Old Public Employee	Prefix is "PE," prior to 1/1/81	PE234567
Public Work Relief Employment	Prefix is "PWRE"	PWRE1234
Occupational Disease	Prefix is "OD"	OD123456
Occupational Disease Public Employee	Prefix is "ODPE"	ODPE1234
Non-Complying Employer Medical-Only	Prefix is "M," Suffix is "-27"	M1234-27
Non-Complying Employer Lost Time	Prefix is "L," Suffix is "-27"	L1234-27
Old Non-Complying Employer	Suffix is "-27"	12345-27
Self-Insuring Employer Medical Only	Prefix is "M," Suffix is "-22"	M12345-22
Self-Insuring Employer Lost Time	Prefix is "L," Suffix is "-22"	L12345-22
Self-Insuring Occupational Disease	Prefix is "OD," Suffix is "-22"	OD1234-22
Old Self-Insuring Employer	Suffix is "-22"	12345-22
Rehabilitation Medical Only	Prefix is "RM"	RM12345
Rehabilitation Lost Time	Prefix is "RL"	RL12345
Other Prefixes		
ONG - Ohio National Guard	APP - Apprenticeship	
YC - Youth Commission	CD - Civil Defense	

F. RECORDS MANAGEMENT

1. Retaining and Transferring Records

The MCO shall ensure confidentiality of hard copy and electronic transactions and files. The MCO is required to notify the injured worker affected about lost/stolen/misplaced sensitive claim file information or inappropriate access to that information. The MCO shall retain records received from its providers and subcontractors to develop electronic billings to BWC. The MCO shall retain records obtained from its providers and

subcontractors to perform its medical management functions or to substantiate the delivery, value, necessity and appropriateness of goods and services to injured workers. The MCO, upon BWC's or the new MCO's request, shall provide all requested records to the new MCO in conjunction with the reassignment of an employer. The MCO must retain all records, including hard copy and electronic transactions and files, related to the injured worker's claim, regardless of whether the claim is in an active or inactive status, according to the following schedule:

Claims with a date of injury from 12/11/67 to 8/24/2006:

- Medical Only claims = 6 years from date of injury or last medical paid
- Lost Time Claims = 10 years from last Medical or Indemnity paid in claim or six years from the last medical payment, if no compensation is paid.

Claims with date of injury **on or after** 8/25/2006:

- Lost time and medical claims = 5 years from the date of injury or last **payment** in claim

Records to be retained include, but are not limited to:

- Medical bills*;
- Medical documentation;
- Correspondence (including provider account information);
- Case notes;
- Accident descriptions;
- Treatment requests;
- E-mails that document functions, policies, decisions, procedures or operations associated with BWC;
- EDI transactions.

Imaged records must be formatted to allow the original record to be viewed in its entirety with all signatures and date stamps visible.

Medical and claim information that is part of BWC's claim file, including hard copies and electronic copies the MCO has gathered in the course of providing services under the Health Partnership Program (HPP), is the property of BWC. The MCO shall comply with Appendix H – Records and Information Management of the MCO Agreement regarding destruction of documents in the claim file. All such files shall be returned to BWC immediately upon termination of the agreement between the MCO and BWC. The MCO shall date stamp all documents it receives. Besides the calendar date and year the document was received, the date stamp must also display the MCO's name and MCO number. Any equipment materials or supplies BWC provides to the MCO shall be returned to the BWC upon request.

a. Transferring records

If claims are transferred to another MCO due to employer reassignment, open enrollment, decertification, contract termination or merger, the source MCO (i.e., the MCO transferring the claims) shall provide copies of requested claim file information and any of its associated documentation (e.g., reports, treatment plans, diagnostic

studies, case manager notes, bill payment histories, etc.) to the destination MCO (i.e., the MCO receiving the claim). However, the destination MCO should check BWC's website/medical repository for the records prior to making the request from the source MCO. Both MCOs are responsible for complying with the record retention guidelines for those claims.

Good-bye/hello 148

When a policy number is changed on a claim record for any reason, a 148 will be sent to the source MCO and the MCO now responsible for the claim's medical management ("destination MCO.")

The source MCO will receive a 148 containing the claims it medically manages, as it does today. The 148 also will contain information about claims they no longer medically manage. The 148 sent to the source MCO will contain minimal data. This data will allow the source MCO to identify claims no longer assigned to it. As with open enrollment changes, the source MCO shall provide copies of requested claim file information and any of its associated documentation (e.g., reports, treatment plans, diagnostic studies, case manager notes, bill payment histories, etc.) to the destination MCO (i.e., the MCO receiving the claim). However, the destination MCO should check BWC's website/medical repository for the records prior to making the request from the source MCO.

During the second half of 2010 BWC enhanced the good-bye 148 process so that MCOs will receive a good-bye 148 if the claim is changed to a self-insured policy or changed to a null policy number. This enhancement gives the MCO increased information about what claims they are to medically manage.

The MCO is bound by the same privacy and confidentiality requirements that R.C. 4123.88 and Rule 4123-6-15 place upon BWC in relation to claim files for claims no longer assigned to it.

When an MCO is decertified as a result of a merger, the destination MCO will obtain check registers, bank statements and reconciliation from the selling MCO up to 7 years upon BWC's notification of completion of the closing audit of the source MCO's provider account.

b. Medical bills

- Rule 4123-3-23 allows providers to file fee bills within one year from the date the services were rendered or within one year from the date the services became payable under R.C. 4123.511(I), whichever is later. Therefore, it is possible a MCO can receive a bill well after transferring the associated claim to another MCO. Since MCOs must conform to the legal requirements of Rule 4123-3-23 and Appendix H of the MCO Agreement, they must retain any hard-copy or electronic records necessary for considering reimbursement as required in the MCO Agreement.

2. Reconciliation

The source MCO must pay particular attention to retaining provider account information at all times, especially during and after an open enrollment period. The source MCO is responsible for medical bill payment reconciliation for all bills in claims the source MCO

medically managed with dates of service prior to the effective claim transition date. If the source MCO received payment from BWC and cannot show proof it paid the provider, then the source MCO will be responsible for paying the provider. Additionally, if the source MCO shows proof it mailed the provider a check and that check has not cycled through, the source MCO will be responsible for paying the provider. The destination MCO shall only be responsible for providing bill payment reconciliation for source MCO medical bills in cases when the source MCO no longer contracts with BWC to provide medical management and cost containment services under HPP.

3. Medical Repository

BWC's Medical Repository was developed to coordinate faxes coming from providers so that MCO and BWC documents are synchronized and to reduce the number of duplicate requests to providers for medical documentation.

There are three methods of submitting documentation to BWC's imaging system: a) MCO's Medical Repository fax line(s); b) BWC's Medical Repository line; and c) Service office terminating fax line. Each MCO is required to support BWC's imaging system. BWC has expanded the types of documents that are indexed into the claim from the Medical Repository lines. However, C-9s for medical treatment only (no request for an additional allowance) are still deleted at BWC. MCOs are to make their determination on the C-9 and fax the completed C-9 to the appropriate Service office imaging terminating fax line.

a. MCO's Medical Repository Fax Lines

Provider medical documentation automatically enters BWC's imaging system through the MCO's published fax line (s) that are owned by and forwarded to BWC. BWC then forwards the received faxes to the MCO. The MCO must ensure that any fax line that is published or communicated by staff to providers for the purpose of submitting medical documentation is always forwarded to BWC. Also, any local fax numbers that have been communicated to providers for this purpose must also be forwarded to BWC. The MCO is responsible for contacting the MCO Business & Reporting Unit and BWC's Service Desk (phone 614- 644-0479 or email ServiceDesk@bwc.state.oh.us) prior to making any changes to these numbers. The MCO is also responsible for reporting any problems with these lines to BWC's Service Desk.

Provider documents coming through the MCO should clearly identify the injured worker's name and claim number (if already assigned) and any other identifying information such as date of birth. This will assist indexers in imaging documents to the correct claim. The MCO should contact providers who do not include identifying information on medical documents. Since social security number is not a required data element, any other injured worker identifying information is critical to properly indexing the claim. A fax cover sheet for providers is available on BWC's website to use when faxing to the MCO. MCOs may direct providers to access this cover sheet by going to: www.bwc.ohio.gov, select "Medical Providers", then in the menu on the left sidebar, select "Forms". The first form available is the cover sheet, "Medical Documentation Fax Cover Sheet"

BWC imaging staff members are required to image documents received within 24 hours of receipt. However, documents are generally imaged within 8 hours if the identity of the injured worker is clear enough to link to the claim. If the identifying information is not included on the medical documentation or the associated claim has not yet been filed, the

document remains in queue with repeated attempts being made to index. If the document(s) cannot be matched to a claim they are deleted after 14 business days.

The First Report of Injury forms (FROIs) are handled differently. If a FROI is received and the MCO has not filed the claim within 7 business days, the FROI is then researched and filed by BWC. The MCO will receive this claim via a 148 from BWC.

If the MCO identifies a document that was indexed incorrectly and needs to be indexed to the correct claim, the MCO should email the CSS and the information supervisor in the service office where the claim is assigned and copy the appropriate SOM.

b. BWC's Medical Repository Line

The purpose of this fax line is for the MCOs to have a method to fax provider medical documentation received via the mail to BWC's imaging system. The number is 866-672-9071. **This fax number is for MCO use only and shall not be given to anyone outside of the MCO.**

In order to prevent duplicate medical being submitted to the system, the MCO should review mail received. If there is a fax banner at the bottom of each page indicating "Medical Repository" or the name of one of BWC's service offices with fax numbers, date and time, then BWC has already received and imaged those documents. The MCO should not refax these documents through the mail line or to any service office imaging fax number. The provider may have submitted a packet of information that contains both imaged and non-imaged documents so the MCO should review mail received carefully so as not to be submitting duplicates.

The following are examples of a few of the documents that *should not* be faxed through BWC's Medical Repository line: C-9s (unless box 5 is populated with a request for an additional condition), attorney letters, TPA letters, provider bills, BWC, MCO, TPA, or attorney generated correspondence, Industrial Commission Orders etc.

c. Service Office Imaging Terminating Fax Lines

The MCOs should use 866-336-8352 to fax MCO determinations or other documentation gathered in the medical management of the claim that do not already appear in BWC's imaging system. MCOs should fax this documentation to this number regardless of the service office where the claim is assigned.

Examples of documents that should be faxed to the service office terminating imaging fax numbers are: MCO completed C-9s, MCO case management plans, MCO vocational referrals and all accompanying vocational rehabilitation documentation, MCO correspondence, claims documents, attorney letters, TPA letters, employer information, including, but not limited to, light duty job description obtained from the employer, etc. MCOs should ensure that identifying information such as claim # and claimant name are included on these documents.

MCOs should always tell providers to use the MCO's toll-free fax numbers listed in the MCO Directory on www.bwc.ohio.gov to ensure medical documentation is indexed in BWC's medical repository system. However, the service office imaging terminating fax number is a public number so providers may use that numbers to fax documents to the service office. Timely medical and other documentation are needed for claims

determination and management. If BWC has not received documentation through the MCO then BWC’s customer service team contacts the provider directly to obtain.

Prior to making any decision in a claim, MCOs should review BWC’s imaging system to determine whether any additional documentation has been received.

BWC service office staff will email the MCO within 24 hours of receipt that a C-9 or medical appeal (ADR or voc rehab) has been received by the service office. The MCO can then access these documents through www.bwc.ohio.gov, review, and respond to the C-9 and process any appeals timely.

To avoid duplicates in the BWC imaging system, when faxing documents to another MCO that have been previously imaged into the Medical Repository, the MCO must fax to the other MCO’s terminating fax number listed below:

MCO Terminating Fax Numbers		
MCO #	MCO Name	Terminating Fax
10041	1-888-OHIOCOMP	(216) 274-1194
10013	3 - HAB, LTD.	(513) 221-2338
10026	ADVOCARE INC.	(216) 514-1457
10016	AULTCOMP	(330) 830-4901
10073	COMP ONE, LTD.	(330) 259-0094
10005	COMPMANAGEMENT HEALTH SYSTEMS, INC.	(614) 790-8350
10006	HEALTH MANAGEMENT SOLUTIONS	(614) 889-6246
10008	CORVEL CORPORATION	(440) 663-3285
10010	CAREWORKS	(614) 760-3668
10042	GENEX CARE OF OHIO	(513) 346-7895
10011	MEDICAL ADMINISTRATORS, INC.	(440) 899-2229
10017	OHIO EMPLOYEE HEALTH PARTNERSHIP	(614) 318-1095
10002	SHEAKLEY UNICOMP	(513) 618-1500
10060	THE HEALTH PLAN	(740) 699-6152
10052	UNIVERSITY COMP CARE	(216) 767-8853
10061	Frank Gates Managed Care	(614) 717-4729
10074	WORKSTAR HEALTH SERVICES	(513) 779-5683

d. Imaging System Access

The document repository web site is located at <http://medrep.ohiobwc.com>. Each MCO has been assigned a single login and password (multiple personnel from your MCO can access simultaneously).

This login shall be used by MCO staff only (which may include subcontractors or vendors of the MCO), and is not to be given to any parties not authorized by BWC. Unauthorized access to any BWC system is prohibited. Misuse of any data or access granted could result in access restrictions, MCO contract termination and/or decertification, and possible criminal and civil penalties. Each MCO will only be able to see documents associated with claims assigned to that MCO. BWC will monitor the system. If there is evidence of unauthorized access to BWC’s imaging system through

your MCO's login, access may be revoked and further action taken. The MCO is required to maintain a list of all individuals to whom the login and password are provided.

Parties to the claim have access to claim documents via BWC's website. Effective November 17th, 2003, any provider type who is delivering treatment on a particular claim may access C9s through BWC's imaging system. However, access applies only to C9s. The only C9s which appear in BWC's imaging system are those where the MCO completed them with a decision and those that were submitted initially by the provider with box 5 request for an additional condition is indicated. All other initial C9s are deleted.

Medical providers who are one of the seven physician of record (POR) provider types listed below and associated to the claim have access to all claims documents within that claim.

- Doctor of Chiropractic (D.C.);
- Dentist (D.D.S.);
- Mechanotherapist/Doctor of Mechanotherapy;
- Doctor of Osteopathy (D.O.);
- Medical Doctor (M.D.);
- Podiatrist (DPM);
- Psychologist.

e. Imaging System Contacts

The MCO may contact BWC's Service Desk at 614-644-0479 or ServiceDesk@bwc.state.oh.us with any production issues or to request a password change or reset. In addition, each MCO is **required** to contact the MCO Business & Reporting Unit at BWC, 90 days in advance of any proposed changes to their fax telephone line or service. The MCO should contact the assigned CSS/Service Office if they are experiencing difficulty in locating a document they think should have been imaged or if they find mis-indexed documents in claims.

MCOs with fax back systems are also expected to maintain adequate open fax back lines so that the medical repository will not receive busy signals and so that the MCO can receive their hard copy fax.

f. Helpful Hints In Locating Documents

The imaging system includes the following categories: received date, number of pages, document type and document description. All documents that have been imaged via the MCO's Medical Repository fax line or BWC's Medical Repository line have the prefix of "**MR**" in the document description category. Documents faxed directly to the service office by MCOs or externals will not have the "**MR**" prefix.

Documents can be sorted by any of the 4 categories by clicking on the category name. Clicking a second time will change the sort from ascending to descending. For claims with a large volume of documents, the user can enter a date range and/or document type to limit the documents displayed.

g. C-9s and Appeals Bypassing MCOs

MCOs are responsible for responding to C-9s, medical and voc rehab appeals within specified timeframes. However, sometimes parties are bypassing the MCO and sending these documents directly to the service office via mail, fax or submitting them through the service office's customer service counter. The MCOs cannot respond to requests for services or appeals if they do not know that BWC has received them. For example, providers or attorneys may be submitting medical along with claims documents to the service office.

BWC staff has been instructed that if the service office receives a C-9, medical or voc rehab appeal that does not have the medical repository banner on the bottom of the document, the service office should fax the document to the MCO's terminating fax number on the same day of receipt. This will help reduce duplicates in BWC's imaging system

If C-9s, medical or voc rehab appeals are faxed directly to the service office imaging fax numbers, they will post to the CSS work list. The CSS will then fax to the MCO's terminating fax number on the date that the document posts to the CSS work list.

The amount of medical documentation being faxed directly to BWC service offices and bypassing MCOs is increasing. The service office staff have been notified that if they know of a provider who is repeatedly submitting medical information directly to the service office instead of through the MCO's published fax numbers, to please advise the provider that the MCOs need this information which is captured in BWC's imaging system. If the identifying information is on these documents (Claim #, IW name, etc.) then the documents can be indexed timely. The service office will also notify the MCO so that they can follow up further with that provider.

G. MEDICAL INFORMATION RELEASE

The MCO is responsible for ensuring strict confidentiality of all information generated as a result of managing the case. The MCO, its officers, agents, employees, representatives, subcontractors and assigns shall keep confidential all information, in whatever form obtained, including but not limited to knowledge of the contents of BWC's confidential records. Any information subject to the confidentiality laws of this state shall not be released to any person other than authorized BWC representatives, unless BWC directs its release. Subject to R.C. 2317.02, 4123.27 and 4123.88, certain employer premium, payroll and injured worker claim file information are confidential and exempt from the open records laws (R.C. 149.43). The MCO will make available such information only to requesters as identified in the BWC Policy on Public Records Release (Section K of this chapter).

1. Requirements

Providers who undertake treatment of an Ohio injured worker assume an obligation to submit initial and subsequent reports to the MCO on the injured worker's behalf. Providers also assume an obligation to provide and complete all forms required by BWC or the self-insuring employer, and may not charge for completing required forms or submitting necessary documentation. MCOs may ask providers to supply medical documentation; providers **must comply** with this request within **ten (10) business days**. Note: The process for the *Request for Additional Medical Documentation for C-9 (C-9-A)* changed with implementation of claim reactivation - phase II. BWC has extended the timeframe for providers to submit requested documentation to MCOs for active and inactive claims from five to 10 days. By filing a claim for workers' compensation benefits, the injured worker gives release to BWC

or anyone working for BWC to access information related to the claim. Consequently, submitting medical reports to either BWC or a MCO **does not** require a release of information form signed by the injured worker. In instances where a signed release form is desired, the injured worker can sign the *First Report of Injury, Occupational Disease or Death (FROI)* form or BWC's *Authorization to Release Medical Information (C-101)* form. Some providers use a *Financial Release* form, which would suffice.

2. Mental Health Notes

There is no Ohio law or rule that provides a definition of mental health notes. However, the Health Insurance Portability and Accountability Act (HIPAA) 1996 created standards when dealing with the privacy of health information, which helps to prevent the improper use of one's medical record.

HIPAA describes mental health notes as a Psychotherapy note and specifically defines Psychotherapy note as "notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record."

HIPAA defines that a "Psychotherapy note" does not include the following information:

- Medication prescription and monitoring,
- Counseling session start and stop times,
- The modalities and frequencies of treatment furnished,
- Results of clinical tests, and
- Any summary of the following items:
 - diagnosis,
 - functional status,
 - the treatment plan,
 - symptoms,
 - prognosis, and
 - progress to date.

The above information is considered a Non-Psychotherapy note.

Most mental health professionals to keep in line with the HIPAA requirements are generally keeping two sets of notes.

- One set would be the documentation of the counseling sessions as an item of Protected Health Information, which is kept as the **Psychotherapy note**.
- A second set will contain other information which is easily fitted into a record summary for documentation, which includes the **Non-Psychotherapy note** information listed above.

BWC policy will reference mental health notes as Psychotherapy and Non-Psychotherapy.

The Psychotherapy notes remain strictly confidential and HIPAA requires a separate release for the release of actual Psychotherapy notes. Therefore mental health professionals are very sensitive to not release their actual records without a signed, Psychotherapy note-specific release.

Based on this information, BWC should not be receiving any mental health notes, regardless of whether they are titled Progress notes, reports, office notes, etc., that fall under the HIPAA definition of Psychotherapy notes.

However, if the MCO/BWC receives the providers' mental health notes which fall under the HIPAA definition of Psychotherapy notes these mental health notes should not be viewable to any party in the claim even if the psychiatric/psychological condition is allowed in the claim.

If the MCO/BWC receives mental health notes limited to the bulleted information above (Non-Psychotherapy notes), these mental health notes are viewable to any party in the claim, assuming that the psychiatric/psychological condition is allowed in the claim, unless a physician, psychiatrist, or psychologist documents that a review of the information by the injured worker will be detrimental to him/her. This is medical that is pertinent to the medical management of the claim.

If it cannot be determined or if there is doubt on whether the mental health notes constitute confidential counseling notes or not, the mental health professional must be contacted to clarify the nature of the records received.

3. Confidentiality of Psychiatric/Psychological Information

R.C. 4732.19 governs the confidentiality of mental health provider records, and protects the psychologist-patient privilege. Confidential information is legally protected information that is controlled by the Public Records Release Chart. Confidential information that is subject to a public records request must be redacted. Confidential information must be released when a valid signed authorization is submitted.

4. Requests for or Release of Psychiatric/Psychological Information

HIPAA and Ohio law protect the confidentiality of mental health notes (Psychotherapy notes); therefore, the MCOs cannot request copies of this information. Requests for copies of Psychotherapy notes with the deletion of any non-claim related information is also prohibited. However, a summary of the mental health notes (Non-Psychotherapy note) may be requested.

The MCOs should not be requesting mental health notes that fall under the HIPAA definition of Psychotherapy notes from the provider. For the medical management of the claim, the MCO may request a Mental Health Notes Summary (Non-Psychotherapy note) from the provider. The MCO may use the MEDCO-16 form to request Mental Health Notes Summary (Non-Psychotherapy Note) from providers. The MEDCO-16 form is available via ohiobwc.com under *Medical Providers /Forms*.

The MEDCO-16 is to submit treatment summaries to the MCO/BWC on allowed psychiatric/psychological conditions in a claim in a HIPAA compliant format. This form is not required to be completed or submitted by the mental health provider, they have the option of submitting their HIPAA compliant office notes if they do not want to complete this form. This form is intended for claims management purposes only.

The MCO should make requests for psychiatric/psychological information (Non-Psychotherapy Notes) from an authorized person and should direct the request to a specific

address and individual. The MCO should ensure that the information is only sent to the person(s) authorized to receive the request.

Mental health notes (psychotherapy notes) are to remain strictly confidential. Release of this information should follow the Release of Information and Sensitive Data policies to ensure mental health notes (psychotherapy notes) are released appropriately and not released to the general public.

5. Copy charges

The MCO will not charge a fee for providing any requested information to BWC. The MCO charge for copying requested documents to a provider and/or any party to the claim (i.e., injured worker, employer and their authorized representatives) will be the actual duplicating cost and will not exceed five cents (\$.05) per page.

Per 4123-6-20.1, a provider may charge a fee for copies of medical records if the provider had previously filed copies of medical records with the bureau or MCO and the bureau had provided access to such medical records electronically, or if the provider had previously filed copies with the SI employer in SI claims. The provider's fee shall be based on the actual cost of furnishing such copies, not to exceed twenty-five cents (\$0.25) per page.

6. Health Insurance Portability and Accountability Act

The final HIPAA privacy and electronic transactions regulations do not directly apply to BWC and the MCOs. BWC and the MCOs (and self-insuring employers' workers' compensation programs) do not qualify as "covered entities" under the HIPAA regulations, since they do not meet the definitions of a "health plan", "health care clearinghouse" or "health care provider" as defined in the rules. In fact, workers' compensation programs are specifically *excluded* from the definition of a "health plan" under the HIPAA regulations.

Under the final HIPAA privacy and electronic transactions regulations, covered entities, including providers, may have "business associates" who perform some tasks or functions for or on behalf of the covered entity (e.g., legal, accounting, etc.) that involve the use or disclosure of health information. In general, covered entities must enter into "business associate agreements" with these "business associates" in which the "business associate" agrees to safeguard the privacy of the information.

BWC and its MCOs are not "business associates" of providers, since BWC and the MCOs generally do not perform any functions "for or on behalf of" providers. This applies to both treating providers and to BWC's Disability Evaluator Panel (DEP) providers.

However, an administrative agent of a DEP provider might be considered a "business associate" of the DEP provider (but not of BWC) under HIPAA. It is the responsibility of the DEP provider to ensure that his/her contract with the administrative agent contains the necessary HIPAA privacy safeguards; therefore, DEP providers should consult their own legal counsel and/or HIPAA consultants as to whether their administrative agent contracts are (or need to be) HIPAA compliant.

In general, the HIPAA electronic transaction regulations apply to the transmission of data in a transaction between covered entities, or within the same covered entity, when there is a HIPAA standard for that type of transaction. Since BWC and its MCOs do not qualify as "covered entities" under the HIPAA regulations, transactions between BWC and an MCO, or

between an MCO (or BWC) and a provider, do not have to be conducted in compliance with the HIPAA electronic transaction standards.

Under HIPAA, protected health information may be released by providers in a workers' compensation claim (1) for treatment, payment or health care operations purposes; (2) under a HIPAA exemption for the release of information in compliance with state workers' compensation laws; (3) under a valid HIPAA authorization; and (4) under a valid administrative or judicial order, subpoena, discovery, or other lawful process which meets HIPAA requirements.

Under the final HIPAA privacy regulations, covered entities may use and disclose protected health information for treatment, payment, and health care operations purposes. "Payment" and "Treatment" are defined fairly broadly under HIPAA. Therefore, to the extent that a provider is currently treating a workers' compensation claimant and the provider is:

- requesting authorization for treatment,
- requesting payment for treatment already rendered, or
- providing information with regard to the allowance of a workers' compensation claim, or the allowance of an additional condition in an existing claim, the provider should be able to release information to BWC or an MCO (or to a self-insuring employer or Qualified Health Plan [QHP] in a SI claim).

In addition to the release of information for treatment, payment or health care operations purposes, the final HIPAA privacy regulations specifically allow covered entities to disclose protected health information **"as authorized by and to the extent necessary to comply with [state] laws relating to"** workers' compensation programs.

There is no Ohio workers' compensation statute that directly addresses a provider's obligation to submit protected health information to BWC or to the MCOs. However, there are two relevant BWC administrative rules. The first of these, Rule 4123-6-02.8, requires providers to report an injured worker's injury to either the worker's MCO or to BWC via BWC's website within one working day of the initial treatment or initial visit.

The second relevant rule is Rule 4123-6-20(D), amended effective January 1, 2003, which states in relevant part:

In accepting a workers' compensation case, a medical provider assumes the obligation to provide to the bureau, claimant, employer, or their representatives, MCO, QHP, or self-insuring employer, upon written request or facsimile thereof and within five business days, all medical, psychological, or psychiatric documentation relating causally or historically to physical or mental injuries relevant to the claim required by the bureau, MCO, QHP, or self-insuring employer, and necessary for the claimant to obtain medical services, benefits or compensation. Note: Effective Nov. 1, 2004 the timeframe for providers to submit requested documentation to MCOs for **active and inactive claims was extended** from five to **ten days**.

If a treating provider is being asked to disclose protected health information to any of the parties listed in Rule 4123-6-20(D) (BWC, injured worker, employer, MCO, QHP, or self-insuring employer) for a purpose other than for treatment, payment, or health care operations (e.g., the initial investigation of a claim, the completion of a C-84 form for the worker to

receive temporary total compensation, etc.), and the provider is persuaded that the requested documentation “**relate[s] causally or historically to physical or mental injuries relevant to the claim**”, is “**required by the bureau, MCO, QHP, or self-insuring employer**”, and is “**necessary for the claimant to obtain medical services, benefits or compensation**,” the provider may disclose the information pursuant to **45 C.F.R. 164.512(I)**.

Note that this HIPAA workers’ compensation “exemption,” when read in combination with the Ohio rules cited above, may in many cases provide additional support for the release of health information under the other circumstances discussed here (e.g., release for information to BWC or an MCO for treatment or payment purposes, etc.).

Under the HIPAA privacy regulations, covered entities may disclose protected health information under a valid authorization (release) from the individual that complies with HIPAA requirements.

R.C. 4123.651 (B) and (C) specifically provide that employers are entitled to a signed medical release from their injured workers for “**medical information, records, and reports relative to the issues necessary for the administration of [the injured worker’s] claim**,” **and** that the injured worker’s right to compensation and benefits may be suspended if they do not provide such release to the employer.

Therefore, if the employer is having difficulty obtaining protected health information from a provider, the employer may obtain a signed medical release from the injured worker pursuant to **R.C. 4123.651**. If the signed release complies with the requirements for a valid HIPAA authorization, it will be honored by providers.

BWC revised its Authorization to Release Medical Information (C-101) form so that the form constitutes a valid, HIPAA compliant authorization by the effective date of the HIPAA privacy regulations (April 14, 2003). Note: The medical release statement on the BWC First Report of Injury (FROI-1) form is not, and in all likelihood cannot be modified sufficiently to constitute, a valid, HIPAA compliant authorization.

Also, note that in general, psychotherapy notes may not be disclosed, even for most treatment, payment, or health care operations purposes (with a few limited exceptions) without a separate authorization specifically for the notes.

Under the HIPAA privacy regulations, a covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

- (1) In response to a court or administrative order (but must disclose only the protected health information expressly authorized by such order); or
- (2) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by a court or administrative order, if the covered entity receives satisfactory assurances from the party seeking the information that
 - (a) it has made reasonable efforts to ensure that the individual whose information is being requested has been given notice of the request; or

(b) it has made reasonable efforts to secure a qualified protective order that meets HIPAA requirements.

However, a covered entity may disclose protected health information in response to lawful process without receiving the satisfactory assurances specified above if the covered entity makes reasonable efforts to provide notice to the individual or to seek a qualified protective order. “Satisfactory assurances” and “qualified protective order” are defined more fully in the HIPAA regulations.

Therefore, providers could also release protected health information in a workers’ compensation claim under a court or Industrial Commission order, or under a court, Industrial Commission or BWC subpoena, or during discovery proceedings in court, if the HIPAA requirements set forth above are met.

H. BWC POLICY ON PUBLIC RECORDS RELEASE OF INFORMATION

According to R.C. 4123.88, only the injured worker, employer, or BWC/IC can authorize the examination of claim records. Primarily, any party to actions in a claim (injured worker and his/her authorized representative, employer and his/her authorized representative), are allowed to see all information in the claim, with a few exceptions.

Sensitive information can include confidential information, personal information (last name and first name or initial in combination with any of the following: SSN, drivers license number, state ID card number, financial account number or credit / debit card number), IW claim data, employer premiums, and other data elements.

Confidential information is protected information that is controlled by the Public Records Release Chart. Confidential information that is subject to a public records request must be redacted. Confidential information may be released through a valid signed authorization. This information includes, but is not limited to SSN, HIV / AIDS references, psychiatric or psychological information, peace officer, firefighter or EMT information, etc.

Sensitive information describes confidential and other protected **electronic** information that must be carefully controlled by BWC and the MCO and is defined by the Sensitive Data Charts. Sensitive data can be released through a valid signed authorization. Sensitive information can include confidential information, personal information (IW name, SSN, drivers license number, state ID card number, financial account number or credit / debit card number), IW claim data including the claim number, employer premiums, and other data elements.

One good way to think of BWC information is to classify it as either a public record or confidential. This determination can be made using the Public Records Release Chart located on the portal. To further classify the information, sensitive information is simply confidential and other protected information in electronic form that is subject to additional MCO control. MCO employees should refer to the Sensitive Data Charts to determine if BWC information is sensitive. Keep in mind that MCO employees must protect both confidential and sensitive data at all times.

According to **R.C. 149.43**, public records must be prepared and made available for inspection to the person making the request at reasonable times during regular business hours. A public record can be requested by any legal “person”, which includes corporations, other business entities, organizations, and individuals. The request **does not** need to be writing nor must the person reveal the purpose for which the information will be used. Upon request, copies must be made available at cost within a reasonable period of time and, generally, upon the medium requested.

As a result of recently enacted amendments to R.C. 4123.88 contained in Senate Bill 7, the records contained in the claim files maintained by the BWC are not public records and may not be released. No person shall, without prior authority from the bureau, a member of the commission, the claimant, or the employer, examine any claim file or any file pertaining thereto. MCOs and providers associated with the claim may receive this information even though they are not parties to the claim.

MCO Responsibilities when transmitting sensitive data

The MCO shall never transmit BWC sensitive data via e-mail to any entity (BWC, IW, provider, employer, TPA, IW representative, etc.) unless the e-mail is password protected or secured/encrypted using ZixMail or ZixMail compatible software approved by BWC. If using password protection or ZixMail, the subject line is not secured/encrypted therefore, if included in the subject line the claim number must be masked (##-XXX###) and/or the IW name shall be First name with Last name initial. Regardless of the software used, the MCO must ensure its policies and procedures are written to ensure that sensitive data is secured when e-mailed and that the e-mail contains a “banner” noting that it was sent securely.

Transmitting BWC sensitive data via RightFax is allowed only if the recipient is a Fax machine and includes the disclosure statement above.

Never RightFax sensitive data to another e-mail address or computer unless the document is secured/encrypted and includes the disclosure statement above.

Transmitting sensitive data via normal Fax is allowed.

Transmitting sensitive data via File Transfer Protocol (FTP) using at least 128 bit encryption with PGP or GPG is allowed.

Transmitting sensitive data to the Portal is allowed.

Sensitive Data and Public Records grids are all available on the Portal under shared documents, BWC training, Sensitive data and Portal usage folder.

Any improper use or access by an MCO employee of BWC data via a BWC personal information system (including, but not limited to, www.bwc.ohio.gov and the MCO Portal) will result in the termination of that person’s access as well as notification to the MCO. “Improper use or access” is defined as access or use that is not for a legitimate business purpose. All MCO use and access of BWC data is subject to the confidentiality provisions of the MCO Agreement.

I. \$15,000 MEDICAL-ONLY PROGRAM (SEE updated policy and procedures in Chapter 9)

J. FRAUD/SPECIAL INVESTIGATIONS DEPARTMENT OVERVIEW

Fraud is a hidden cost of workers' compensation insurance and impacts employers and injured workers. Nationally, the cost of fraud reaches billions of dollars a year. To protect injured workers' benefits and keep employer premium costs down, BWC is aggressively attacking fraud. The fraud/special investigations department is committed to detecting, investigating and prosecuting potential employer, injured worker and medical provider workers' compensation fraud. Additional resources for fraud and deceptive behavior can be located on the MCO portal under BWC training /MCO Fraud.

Examples of fraud include, but are not limited to:

- A injured worker who files a false workers' compensation claim for a non-industrial accident, or a claimant who works while receiving certain benefits;
- A health-care provider who bills for services that were not performed, not related to the industrial accident or not within the provider's scope of practice, or bills incorrectly to enhance reimbursement;
- An employer who intentionally under-reports premiums or who intentionally shifts the costs from an employee's non-work-related health problem to a workers' compensation claim;
- An MCO that knowingly participates in schemes intended to cause BWC to pay money it otherwise would not pay.

1. Shared responsibility for fraud investigations

The responsibility for identifying, investigating and preventing fraud in the workers' compensation system is shared jointly between participating MCOs and BWC's fraud/special investigations department. As the first party to receive medical information relating to workers' compensation claims, MCOs are responsible for helping to identify fraud and reporting those discoveries to the fraud/special investigations department. The department, in turn, investigates allegations of fraud and pursues prosecution, in conjunction with the Ohio attorney general's, health-care fraud section, when appropriate.

BWC and the MCOs agree to develop and provide jointly supportive training to the MCO and to the bureau's fraud/special investigations department personnel in the identification and detection of fraud or deceptive behavior or patterns. BWC and the MCOs agree to develop and refine jointly detection, reporting and recovery processes as needed.

2. Role of MCOs with BWC fraud/special investigations

- MCOs must be aware of behavior patterns that constitute criminally fraudulent or deceptive behavior.
- When detecting fraud or deceptive behavior, MCOs must review available information and determine if a referral to the special investigations department is necessary.
- The MCO must identify and report suspected fraudulent or deceptive behavior committed by injured workers, employers, providers or any other person or entity, and supply supporting preliminary documentation to BWC's fraud/special investigations department **within ten (10) business days** of discovery.

- The MCO and its agents, subcontractors and assignees must provide BWC's fraud/special investigations department with immediate and reasonable investigative access to any and all records, data, electronic storage media, personnel and information relating to any subjects of an investigation.
- The MCO has a responsibility to prevent and detect and refer any and all fraudulent activities as well as track referrals to SID per section 3D and appendix C of the MCO contract.

3. Role of BWC fraud/special investigations department

- BWC's fraud/special investigations department must provide assistance to requesting MCOs to help educate MCO personnel with respect to identifying fraudulent behavior.
- When an allegation is received, fraud/special investigations will respond to the MCO within a reasonable time as to the department's intended course of action.
- Fraud/special investigations will provide resources to investigate effectively alleged fraudulent activity.
- When indicated, the fraud/special investigations department will pursue appropriate remedies, including criminal prosecution, with the advice and counsel of the Ohio Attorney General.

4. Special investigations department recovery

BWC may recover overpayments directly from providers in cases including, but not limited to, those identified by the special investigations department. If SID determines the overpayment is not a result of fraud, then it becomes an administrative error. SID will refer all administrative errors to Medical Billing and Adjustments-Recovery unit for further action in accordance with BWC's Overpayment Recovery Policy – see Chapter 8.

Explanation of Benefit (EOB) 875, "Adjustment done following a special investigations department inquiry to collect overpayment by BWC," will be used to identify the line item of a bill that was adjusted as a result of a special investigations department inquiry.

Refer to Appendix C, Fraud/Special Investigations-MCO Fraud Reporting and Referral Requirements, in your contract for additional information regarding MCO fraud reporting and referral requirements.

K. CONFLICTS OF INTEREST

1. MCOs and any other affiliated corporation or entity that has had or contemplates activities of any nature with the Ohio workers' compensation system, including but not limited to Third Party Administrators ("TPAs"), medical or vocational rehabilitation providers and/or transitional work developers shall have complete separation of functions, offices, systems, and staff.
2. MCOs shall not use or contract with its medical director or any provider who has an ownership interest in the MCO to provide independent medical examination (IME) services for injured workers assigned to the MCO. The MCO may hire, as medical director, a physician who is part of a practice that does IMEs. However, the medical director shall not perform IMEs on any injured worker assigned to the MCO, and the MCO shall not schedule IMEs with any member of the medical director's practice.

The MCO shall provide to the Bureau upon request for the Bureau's approval, the MCO's policy/plan for resolving the appearance of, and any actual or apparent, conflict of interest resulting from the MCO's medical director, or any provider having an ownership interest of five percent (5%) or more in the MCO, acting as the provider of record (POR) or servicing provider in claims assigned to the MCO.

3. MCOs and any subcontractor(s) must be separate legal entities and may not have the same bureau provider number or tax identification number. MCOs shall not be a BWC-certified health-care provider. Any questions regarding conflict of interest shall be directed to BWC's MCO Business & Reporting unit.
4. MCOs responsible for medically managing claims for injured workers who are employees of that MCO shall ensure that these claims are managed confidentially. MCO employees who receive any document(s) that pertain to their own claim or the claim of a relative must immediately give the document(s) to their supervisor without review or action.
5. No individual who is an officer or employee of an MCO shall represent a claimant or employer in any matter before the industrial commission, the bureau of workers' compensation, or a court of competent jurisdiction.

Template for Conflict of Interest Policy:

1. The policy must include a section that corresponds to each of paragraphs A through I of Section 20 of the 2011-2012 MCO Agreement. If a section is not applicable to the MCO, the policy should indicate that and include an explanation as to why.
2. For paragraph C, the policy must include all affiliated entities. If there is no conflict of interest or appearance of a conflict of interest, such as with an entity that does not have or contemplate having activities of any nature with the Ohio workers' compensation system, or that works solely with active self-insured employers, the policy should indicate there is no conflict and explain why. If there is a conflict or the appearance of a conflict, the policy must, at a minimum, document complete separation of functions, offices, systems, and staff. In addition, the policy must include how the MCO will resolve conflicts of interest or the appearance of conflicts of interest:
 - a) if the affiliated entity is a provider, how the MCO will handle bill processing, including treatment authorizations/ADRs, resolution of billing disputes, referrals (particularly to voc rehab providers), etc.;
 - b) if the affiliated entity is a TPA, how the MCO will handle treatment decisions, ADRs, etc. (i) to ensure that medical information is not improperly shared between MCO and TPA and (ii) to ensure the TPA does not improperly influence the MCO's medical management decisions;
 - c) if the affiliated entity is a PEO or other employer, how the MCO will handle treatment decisions, ADRs, etc.; or

d) if the affiliated entity is other than a provider or TPA, the policy must include a description of the conflict or appearance of a conflict and document how it will be resolved by the MCO.

3. For paragraph D, the policy must include a section relating to the Medical Director and/or a provider who owns 5% or more of the MCO being a treating physician and/or POR in any claim assigned to the MCO. This must cover:

a) how C-9s submitted by the Medical Director and/or providers within the same partnership, corporation, or group practice as the Medical Director will be handled, including ADRs;

b) how billing disputes by the Medical Director and/or providers within the same partnership, corporation, or group practice as the Medical Director will be handled; and

c) expressly state that the Medical Director will not conduct independent medical examinations (IMEs) or ADR file reviews for the MCO on claims assigned to the MCO.

If the Medical Director and/or owner is no longer actively practicing medicine, this must be noted as the reason there is no current conflict. However, the policy should contain the components listed above in case: 1) they resume practicing or 2) a new/additional Medical Director is hired.

For purposes of this Agreement an individual or entity is "affiliated with an MCO" when it:

(1) Owns, is owned by, or is under common ownership with an MCO, directly or indirectly through one or more intermediaries;

(2) Controls, is controlled by, or is under common control with an MCO, directly or indirectly through one or more intermediaries;

(3) Has a contractual or other business arrangement with an MCO;

(4) Has one or more owners, shareholders, partners, members, officers, directors or other persons who exercise operational or managerial control in common with the MCO.

L. ORGANIZATIONAL STRUCTURE

The MCO shall perform all scope of services in accordance with all rules, regulations, guidelines, standards and procedures of BWC with the focus on a safe, timely return to work for the injured worker. The MCO shall abide by all BWC policies and MCO reporting requirements as well as adhere to the *MCO Policy Reference Guide* (Appendix A) and *Information Systems Documentation* (Appendix B) and all future updates.

The bureau must approve changes to the MCO organizational structure or business operations in advance in writing. The MCO shall submit any proposed change to BWC at least ninety (90) days in advance of the proposed effective date of the change, unless the bureau approves in advance a shorter period. Unapproved changes to the MCO organizational structure or business operations shall permit BWC to terminate its agreement with the MCO at its discretion.

1. MCOs with delegated functions

If the MCO delegates or subcontracts any function of the MCO, the MCO shall establish and implement policies and procedures to ensure these functions are performed in accordance with the laws and statutes of the State of Ohio, HPP Rules, MCO Contract and BWC policy. This policy applies to any delegated function. For example, if an MCO has delegated the MCO's Electronic Data Interchange (EDI) functions alone, this policy applies. This policy also applies to MCOs who currently are certified and have delegated its functions.

The MCO is expected to manage its subcontractors. The MCO and the subcontractor must effectively communicate and coordinate the delivery of subcontracted services.

BWC expects the MCO's effective oversight of delegated functions includes, but is not limited to:

- A written contract between the MCO and the subcontractor defining clearly what functions are being delegated;
- Periodic review of the subcontractor's policies and procedures method to monitor and evaluate the subcontractor's performance and implementation of that method;
- Implementing a method to monitor and evaluate the effectiveness of the communication and coordination of processes between the MCO and the subcontractor;
- A process for resolving conflicts and providing uninterrupted services to injured workers, employers, providers and BWC in accordance with the MCO's contract;
- A policy and process to address how the MCO will handle instances where the subcontractor is found to be out of compliance.

An MCO who submits a request to BWC to change subcontractors or to enter into a new subcontractor relationship is required to submit this information, along with the other requirements, to the MCO Business & Reporting unit in an MCO transition plan at least 90 days prior to the date the MCO anticipates making the change. BWC may audit MCOs on the transition plan implementation and the MCO's subcontractor(s) oversight.

BWC shall not approve requests to subcontract medical case management.

2. Transition plan

MCOs shall develop a thorough transition plan to cover the details of a merger or vendor change. The transition plan for a merger needs to comply with the *Merger and Acquisition Policy* as submitted in Appendix D of the *MCO/BWC Agreement*. Transition plans shall be submitted to the MCO Business & Reporting Unit at least 90 days in advance of the MCO's requested transition. BWC is responsible for the plan's final approval.

3. Mergers and acquisitions

Immediately after an MCO merger or acquisition, BWC will assign those employers formerly assigned to the non-surviving MCO to the acquiring or surviving MCO. Employers affected by the merger or acquisition will have a 14-day period during which they may select another MCO, if they choose. If the employer doesn't notify BWC that they are selecting another MCO, the employer will remain with the acquiring or surviving MCO.

4. MCO application

MCOs are required to submit MCO Application changes for approval to the MCO Business & Reporting unit. MCOs are also expected to keep the MCO Business & Reporting unit informed of any changes to the MCO's contact information, which includes changes to mailing addresses, e-mail addresses, phone, fax and MCO personnel via the portal. A complete listing of MCO contact information is available on www.bwc.ohio.gov.

5. Customer service

Customer service telephone lines must be staffed during normal business hours, Monday through Friday 9 a.m. to 5 p.m. Eastern Time. The MCO shall respond to all inquiries, which includes BWC's inquiries, (via e-mail, fax, phone, mail) within two business days and resolve or initiate action for resolution to the inquiry within five business days of receipt. MCO's are expected to follow these inquiries through to resolution and report back to the inquirer as to the resolution. The inquirer should not have to track down the status of an inquiry.

6. Training

The MCO shall assess and train its staff in all areas of the MCO Policy Reference Guide and in the MCO agreed scope of services. The MCO shall conduct and track ongoing training of its Medical Case Management staff members on the MCO's use of nationally recognized treatment guidelines, nationally recognized return to work guidelines, utilization review and protocols.

Professional, clinical and other decision-making MCO staff involved in Medical Case Management, vocational rehabilitation case management, utilization review, medical or vocational rehabilitation bill payment, or alternative dispute resolution shall attend up to 10 hours of Bureau mandated training sessions per calendar year, Other MCO staff such as, FROI intake, case assistant, and customer service representatives shall attend up to four (4) hours of BWC mandated training.

7. Business continuance plan

To support the continuation of quality for each organization, the MCO submitted to BWC a business continuance plan. The minimum requirements of the MCO business continuance plan should be based on the Federal Emergency Management Agency's (FEMA's) *Emergency Management Guide for Business and Industry*. The guide can be accessed from FEMA's Web site, www.fema.gov/library/bizindex.shtm.

At a minimum, the plan should establish the following:

- a. Planning process
 - A planning team with a clearly articulated mission statement, authority, activity schedule and budget to effectively develop, execute and maintain the plan;
 - An analysis of risks and hazards that answer the question, "Where do we currently stand?";
 - An assessment of potential emergencies and their impact to lives, property, business and other resources;
 - A plan and schedule reviewed and revised on a regular basis.
- b. Emergency management considerations

- A well-developed and written plan with emergency response procedures and supporting documentation to include:
 - An emergency management group (EMG) to oversee emergency operations and manage contingencies;
 - An emergency operations center (EOC), secure location from which emergency management operations may function;
 - Security considerations to ensure protection of organization's assets;
 - Communications and notification of internal and external entities to include families;
 - Life Safety to include evacuation plans, assembly areas, and shelters;
 - Property protection to include mitigation, facility shutdown, records preservation;
 - Media relations and outreach to ensure the community and customers are well informed;
 - Recovery and restoration to include assessment of insurance and other planning considerations to resume operations as quickly as possible;
 - Administration and logistics preplanned.
- c. Hazard-specific information
- Written, hazard-specific information for the following emergencies:
 - Fire;
 - Hazardous material incidents;
 - Floods and flash floods;
 - Hurricanes;
 - Tornadoes;
 - Severe winter storms;
 - Earthquakes;
 - Technological emergencies.

M. OPEN ENROLLMENT

The open enrollment plan will be created in conjunction with the MCOs. MCOs are required to comply with the final plan.

N. THREATS

MCOs have contacted BWC on several occasions regarding threats that have been made against MCO staff or facilities.

In addition to notifying local police authorities if the situation warrants such action, the MCO shall also notify the BWC Security. BWC Security has the authority and jurisdiction to assess and facilitate law enforcement intervention regarding threats toward BWC or IC staff and facilities. This sharing of information will ensure BWC Security has timely and accurate information regarding individuals who may pose a threat toward staff or facilities at the present time or in the future. Additionally, this contact will allow BWC Security to share information (e.g., past incidents, pattern behavior etc.) with MCO and/or local law enforcement.

Currently, BWC Security works closely with the Ohio State Highway Patrol in determining the level of threat potential and appropriate response. Threats reported to BWC Security that

involve any reference, direct or implied, to MCO staff, premises or services are shared routinely and discussed with that MCO.

BWC Security can be contacted by phone at 614-752-9774 or email to [**bwcsecurity@bwc.state.oh.us**](mailto:bwcsecurity@bwc.state.oh.us).