

| Z E N I T H M E D I C A L P R O V I D E R<br>N E T W O R K P O L I C Y                                                                                                                      |                                                                                                             |
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| <b>Title:</b> California Transfer of Care Policy                                                                                                                                            |                                                                                                             |
| <b>Application:</b> Zenith Insurance Company and its Affiliates                                                                                                                             |                                                                                                             |
| <b>Policy Number:</b> CA003                                                                                                                                                                 | <b>Issued:</b> December 28, 2007<br><b>Revised:</b> February 18, 2020<br><b>Last Approved:</b> July 7, 2023 |
| <b>Approved By:</b> Rupali Das, MD, SVP and California Medical Director; Jennifer Calleton, Director, Provider Relations and Network Management; Jay Paik, VP and Assistant General Counsel |                                                                                                             |

## POLICY STATEMENT

It is Zenith Insurance Company's ("Zenith") policy to safely transfer care from non-Zenith Medical Provider Network ("ZMPN") providers to ZMPN providers within the guidelines established by the applicable laws and regulations governing Transfer of Care.

## PURPOSE

To establish guidelines for compliance with state laws and regulations governing the Transfer of Care to a ZMPN provider when an Injured Employee is obtaining treatment from a non-ZMPN provider for reasons that would allow transfer to a ZMPN provider under applicable laws and statutes. Nothing in this Policy precludes Zenith from electing in its sole discretion to allow treatment with a provider outside of the ZMPN.

## STANDARDS

The Transfer of Care Policy applies to an Injured Employee who is receiving care from a non-ZMPN provider when:

1. treatment for a compensable claim began with the out-of-network provider before the effective date of the implementation of the ZMPN;
2. the Injured Employee made a predesignation of a personal physician and the predesignation does not meet the requirements of Labor Code section 4600(d) and 9780.1; or
3. the Injured Employee is treating with a non-ZMPN physician for other reasons that would allow transfer to a ZMPN provider pursuant to applicable laws and statutes.

The Injured Employee's physician may make referrals to providers within or outside of the ZMPN up until the date the Injured Employee's ongoing care is transferred to a ZMPN provider.

If the Injured Employee was being treated for a compensable claim by a provider before the effective date of the ZMPN, and that treating provider becomes a ZMPN provider, Zenith must inform the Injured Employee and the provider that care provided to the Injured Employee after the effective date of the provider's ZMPN contract will be subject to the terms and conditions of the ZMPN.

## DEFINITIONS

1. "Injured Employee" means an employee or former employee whose employer has ongoing workers' compensation obligations and selected the ZMPN for the provision of medical treatment to its Injured Employees.
2. "Primary Treating Physician" means the physician who is primarily responsible for managing the care of the Injured Employee, and who has examined the Injured Employee at least once for the purpose of rendering or prescribing treatment and has monitored the effect of the treatment thereafter. Pursuant to 8 CCR 9767.6(e), a chiropractor may act as a treating physician only until the 24-visit cap is met unless Zenith elects to authorized continued treatment with the chiropractor. Authorization for continued treatment will be provided in writing.
3. "Transfer of Care" allows Zenith Insurance Company to transfer an Injured Employee's care from a non-ZMPN provider to a ZMPN provider when the Injured Employee meets the criteria set forth in the section on *Standards* above. Transfer of Care is not permitted if the Injured Employee submitted a predesignation of a personal physician to his employer prior to the date of injury and the Injured Employee's medical care was previously directed by the personal physician.
4. "Zenith Medical Provider Network" (ZMPN) means an entity or group of providers approved as a Medical Provider Network by the Administrative Director of the Division of Workers' Compensation pursuant to Labor Code section 4616 to 4616.7.

## PROCEDURES

Upon receipt of information that an Injured Employee is obtaining care from a non-ZMPN provider, the Zenith employee receiving this information will send that information to the appropriate Zenith claims examiner. The claims examiner is responsible for assuring that an appropriate review is conducted to determine whether the Injured Employee may receive ongoing care from the non-ZMPN provider or whether ongoing care may be transferred to a ZMPN provider. The following process will be used when conducting this review.

### Review Process:

1. Zenith will first determine (i) if the Injured Employee submitted a predesignation of a personal physician that falls within Labor Code section 4600(d) and 9780.1 to his or her employer prior to the date of injury and (ii) whether the personal physician previously directed the medical treatment of the Injured Employee. If the Injured Employee meets both of these requirements, the claims examiner will appropriately document the file and the Injured Employee will be authorized to complete treatment through the predesignated personal physician.
2. If the Injured Employee's predesignation of a personal physician does not meet the requirements of Labor Code section 4600(d) and 9780.1 or the Injured Employee is not obtaining treatment from the predesignated personal physician, the claims examiner will note the file and the Injured Employee will be treated the same as an Injured Employee that submitted no predesignation of a personal physician.

If the Injured Employee does not qualify for continued care under a valid predesignation of a personal physician, Zenith will determine whether the Injured Employee has a medical condition that qualifies the Injured Employee for ongoing care with the non-ZMPN provider. Clinical staff will be consulted, when appropriate, during this review process.

### **Criteria for Continued Care with Existing Provider**

If Zenith determines that the Injured Employee is receiving care for one of the following conditions, the Injured Employee will be authorized to continue care with the non-ZMPN provider, otherwise, ongoing care will be transferred to a ZMPN provider:

1. An acute condition. An acute condition is a medical condition that involves a sudden onset of symptoms due to an illness, injury or other medical problem that requires prompt medical attention and has a limited duration of less than ninety (90) days. Completion of treatment shall be provided for the duration of the acute condition.
2. A serious chronic condition. A serious chronic condition means a medical condition due to a disease, illness, catastrophic injury, or other medical problem or medical disorder that is serious in nature and that persists without full cure or worsens over 90 days and requires ongoing treatment to maintain remission or prevent deterioration. Completion of treatment will be authorized for a period of time necessary, up to one year: (a) to complete a course of treatment approved by the employer or Zenith; and (b) to arrange for transfer to another provider with the ZMPN, as determined by Zenith or the employer. The one year period for completion of treatment starts from the date of the Injured Employee's receipt of the notification that Zenith determined the Injured Employee has a serious chronic condition.
3. A terminal illness. A terminal illness is an incurable or irreversible condition that has a high probability of causing death within one year or less. Completion of treatment will be provided for the duration of a terminal illness.
4. Performance of a surgery or other procedure that is authorized by Zenith or the employer as part of a documented course of treatment that has been recommended and documented by the provider to occur within one hundred and eighty (180) days from ZMPN coverage effective date. If this criteria is met, the Injured Employee will be authorized to continue treatment with the existing provider through completion of the documented treatment.

### **Determination and Notice Process**

If Zenith determines that the Injured Employee has one of the conditions set out above, Zenith will notify the Injured Employee of its intent to transfer care into the network following the applicable period of continued care with the out of network provider. Upon completion of the continued care, the Injured Employee will be required to select a provider within the ZMPN.

If Zenith determines that the Injured Employee does not have one of the conditions set out above, the Zenith claims examiner will work with the Injured Employee and provider to arrange for Transfer of Care to a ZMPN provider.

If it is determined that Transfer of Care is appropriate, Zenith or the employer will notify the Injured Employee of the determination concerning the completion of treatment and the decision to transfer medical care to a ZMPN provider. The notification will be sent to the Injured Employee's address and a copy of the letter will be sent to the Injured Employee's Primary Treating Physician. The notification will be provided in both English and Spanish and use layman's terms to the extent possible.

If care cannot be transferred, the claims examiner and nurse will continue to work with the existing provider and conduct periodic reviews until care can be safely transitioned or it is determined that the Injured Employee's medical condition is a terminal illness, or the time frame for continued treatment as defined by that condition is met. Upon completion of the time frames for Transfer of Care set forth on the prior page, the Injured Employee may be transferred to a ZMPN provider.

All treatment provided by ZMPN or non-ZMPN providers must be in accordance with the Medical Treatment Utilization Schedule (MTUS) adopted pursuant to Labor Code section 5307.27, and, for all injuries not covered by MTUS, in accordance with the medical search evidence sequence specified in 8 California Code of Regulations §9792.21.1.

Nothing in this Policy precludes Zenith or the employer from agreeing to provide medical care through providers outside of the ZMPN.

**Dispute Resolution Process:**

If the Injured Employee disagrees with the determination to transfer care to a ZMPN provider, the Injured Employee or their designated representative may file a dispute with Zenith. In order to dispute the determination, the Injured Employee must:

1. notify Zenith that they are disputing the determination; and
2. request a report from the Injured Employee's Primary Treating Physician that addresses the medical condition or situation that qualifies the Injured Employee to continue care with their existing non-ZMPN provider. The medical condition or situation must meet one of the criteria set out above under the Criteria for Continued Care with Existing Provider section of this Policy. The treating physician must provide the report to the Injured Employee within twenty (20) calendar days of the request.

If the treating physician fails to issue the report to the Injured Employee within twenty (20) calendar days, the determination made by Zenith will be upheld and the Injured Employee's care will be transferred to an existing ZMPN provider.

If the physician issues the report and either Zenith or the Injured Employee objects to the medical determination made by the treating physician concerning Transfer of Care, the dispute will be resolved pursuant to Labor Code section 4062 which sets forth the procedures for addressing objections to treating physician recommendations.

If the treating physician's report agrees with Zenith's determination that the Injured Employee's medical condition allows Transfer of Care to a ZMPN provider, the Transfer of Care will go forward during the dispute resolution process.

If the treating physician report does not agree with Zenith's determination that the Injured Employee's medical condition qualifies the Injured Employee for Transfer of Care, the Transfer of Care will not go forward until the dispute is resolved.