



WC MSA Review Contractor Selection Disputed

Just when there is some indication from CMS that they are taking steps to improve the accuracy and timeliness of the review of WC MSA submissions there is news that the process, at least in the next few months, is unlikely to improve and there is uncertainty about the contractor.

As reported in workcompcentral (see below) the selection of Provider Resources Inc. as the new contractor has been challenged by the current contractor, Lifecare Management Partners. The challenge will trigger a review by the US Government Accountability Office, which has up to 100 days to render a decision. Until there is a determination, Lifecare Management Partners will continue conducting the reviews.



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By Jim Sams, Senior Editor

Medicare set-aside professionals are hoping that the federal government's selection of a new contractor to review settlement proposals will speed up reviews that are now taking up to 120 days, but they are going to have to wait a few more months to find out.

One of the unsuccessful bidders has filed a protest to the Centers for Medicare and Medicaid Services' decision last month to award a \$5,124,084 one-year contract to Provider Resources Inc. in Erie, Pa., alleging the agency's review process was flawed. That will trigger a review by the U.S. Government Accountability Office, which has up to 100 days to render a decision.

The current review contractor, Lifecare Management Partners, will continue conducting the reviews until the protest is resolved. Set-aside professionals say they don't expect the company's performance to improve, now that its contract with the government is about to expire. According to government documents, the workers' compensation review contractor must review 2,000 to 2,500 submissions per month.

Jennifer Jordan, an attorney with the Medval set-aside consulting firm in Baltimore, Md., said Lifecare has been taking longer and longer to finish its reviews ever since it learned its contract would not be reviewed.

"I just feel like they've been going through the motions for a month now," Jordan said in an interview with WorkCompCentral. "They can't be held in breach of contract, because they are out of contract. I don't think they have any incentive to alleviate the backlog."

Lifecare Managing General Partner Joseph C. Molina could not be reached for comment on Monday.

CMS' workers' compensation review contractor performs a function that is often vital for settling future-medical claims with injured workers who are eligible -- or soon will be eligible -- for Medicare benefits. Workers' comp carriers send proposed future-medical settlements to the contractor with hopes of receiving an acknowledgment that they have set aside enough money to pay for future medical costs caused by the claimant's work injury.

The reviews are voluntary, but the Medicare Secondary Payer Act allows CMS to file suit if it winds up paying for medical services for a Medicare beneficiary for injuries that should have been covered by a workers' compensation carrier.

Data and Analytics Solutions was one of four vendors that submitted bids to take over Lifecare's role as the workers' compensation review contractor, said CMS Contract Specialist Alan F. Fredericks. Lifecare has held the contract since 2005, but was ineligible to submit a bid for renewal because it no longer qualifies for Small Business Administration criteria that the government uses to steer business to qualified small businesses, he said.

Government documents show that Data and Analytics Solutions filed a protest to the contract award to its competitor on July 5. The Government Accountability Office has until Oct. 13 to make a decision on that protest.

Data and Analytics Solutions President Dawn Li declined to comment on the company's protest. Provider Resources Chief Executive Officer and President Shawn Keough-Hartz also declined to comment.

No matter which vendor ultimately wins the contract, Medicare set-aside professionals are hoping they'll get better service under a new regime. Earlier this month, news that CMS had awarded a new contract generated excited chatter on a Medicare set-aside message board that is a part of the Linked-in professional networking website.

"I think this new WCRC contract is really encouraging news for the MSA industry, because it shows that CMS is seriously trying to fix current problems and delays," said Doug Shaw, chief operating officer at Medivest Benefits Advisors in Orlando.

Shaw said other set-aside professionals are hoping for better service with Provider Resources, should the Erie, Pa.-company overcome the bid protest and actually win the contract.

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Shaw wrote in Medivest's blog that the company's president, Keough-Hartz, is a 22-year veteran of the health care industry with extensive experience in coding, billing, compliance, information technology systems and government contracting. The company's medical director, Dennis Agostini, has advanced degrees in chemistry and osteopathic medicine and has more than 30 years' experience in directing organizations' medical policies and programs.

The current contractor has given its successor plenty of room for improvement, critics say.

Scott LeCompte, senior vice president for the Blackburn Group in Baltimore, said in an interview that at one point set-aside professionals could count on the CMS contractor to complete reviews of submissions within 65 days, but now it's taking 90 to 150 days to get an answer.

LeCompte said even more annoying is the boilerplate questions that Lifecare sends when it seeks more information. The contract often sends "rubber stamp" form letters that don't ask for specific information, leaving the consultants working on the settlement to guess at what the contractor wants to know. He said professionals have learned to call employees at the CMS regional centers to find out what additional information is needed, because the contractor rarely gives straight answers.

"People are just jaded by this whole process," LeCompte said. "It seemed like the WCRC contractor got slower and slower, almost as if they had a staffing problem."

Medval's Jordan, however, said it's impossible to know whether Lifecare's slow response time in reviewing set-aside submissions is a result of its own internal problems or unrealistic demands by CMS. She said she suspects that the number of set-asides submitted for review has increased now that the government has passed rules that require workers' comp carriers and self-insured employers to report future-medical settlements with Medicare-eligible beneficiaries.

She said it is possible that so many submissions are flowing in that the current contractor simply doesn't have time to review all of them in the time frame allotted for the task.

"The wild card is whether the contractor was the problem, or if what CMS is telling them to do is the problem," Jordan said.

Set-aside professionals will have to wait a few months to find out whether a new contractor will speed up the reviews, but they are encouraged by another promising development. On Friday, CMS reported that it has begun testing of an electronic portal that will allow set-aside professionals to submit future-medical settlements directly to the agency instead of mailing paper forms or compact discs to a contractor.

Jordan said now she and other set-aside experts must mail documents or discs to a contractor, who passes the documents along to the workers' compensation review contractor.

"This new initiative will allow submitters of Workers' Compensation Medicare Set-Aside Arrangements (WCMSAs) to directly enter case information, upload documentation, and receive case status information through the use of a secure Web portal," CMS said in its announcement of the pilot project.

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