

WTCHP BULLETIN NO: 13-26

Issue Date: July 10, 2013

Effective Date: July 10, 2013

Expiration Date: None

Subject: Review Process for CCE/NPN Decision Not To Request Certification

Background: Clinical Centers of Excellence (CCEs) were awarded contracts with the National Institute for Occupational Safety and Health (NIOSH) in June 2011 to administer health care within a limited care model to the responders and survivors of the 9/11 terrorist attacks. The World Trade Center (WTC) Health Program has also awarded a contract for a Nationwide Provider Network (NPN) of clinics with providers across the country to provide care for responders and survivors who live outside the New York City metropolitan area. Each CCE/NPN is responsible for all aspects of care for each member it serves. Such care includes, but is not limited to, providing health monitoring or screening examinations and, as determined appropriate, submitting physician determinations to request certification for each health condition of a member which the CCE/NPN determines is on the List of WTC-Related Health Conditions (List) in 42 C.F.R. § 88.1 and is related to the member's 9/11 exposures.

As provided by the Zadroga Act¹, the WTC Health Program reimburses providers for health care expenses for health conditions that have been certified by the WTC Program Administrator as WTC-related or medically associated with a covered WTC-related health condition. Health condition certification by the WTC Program Administrator is required for treatment services to be paid for by the Program. The certification of a WTC-related or medically associated health condition is based on a participating CCE/NPN physician's clinical assessment of the relationship between a given member's 9/11 exposure and the diagnosed qualifying health condition. The Zadroga Act requires a CCE/NPN physician to make a determination that the WTC Health Program member has a WTC-related health condition that is on the List and that "exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition." 42 U.S.C. § 300mm-22(b)(1)(A); 42 U.S.C. § 300mm-31(a)(2)(B)(i).

¹ Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111-347), amended the Public Health Service Act (PHS Act) to add Title XXXIII establishing the WTC Health Program within the Department of Health and Human Services. Title XXXIII of the PHS Act is codified at 42 U.S.C. §§ 300mm to 300mm-61.

In the event that the CCE/NPN physician is unable to make a determination that a listed condition satisfies the substantially likely requirement for WTC-relatedness, the appropriate course of action is to advise the member of this finding and to not submit a WTC-3 requesting certification to the WTC Health Program. A member who disagrees with the CCE's decision to not submit a request for certification of a condition may request a secondary medical review by the CCE/NPN Medical Director. The member must request this review in writing via a letter addressed to the CCE/NPN Medical Director. The CCE/NPN Director has the discretion to designate a qualified physician to perform the secondary medical review or utilize a qualified physician from another CCE. The CCE/NPN Director, or designee, will provide a letter to the member with the final decision on WTC-relatedness, and any actions taken as a result of that final decision. If the final CCE/NPN decision is not to request certification, the letter must provide a reason for this decision. A copy of this letter should be sent to the WTC Program Administrator. If the final decision is to request certification, then the letter should inform the member of this decision, and a request for certification should be submitted to the WTC Health Program. An auditable record of the administrative medical review shall be maintained by the CCE of record for this member.

References: 42 C.F.R. § 88.12

Purpose: To communicate policy regarding a Clinical Center of Excellence (CCE) or Nationwide Provider Network (NPN) decision not to request certification.

Applicability: Clinical Centers of Excellence (CCEs), Nationwide Provider Network (NPN), call center, and Member Services Team.

Actions:

When a CCE/NPN physician makes a decision not to request certification and a member disagrees with that determination:

1. The member is informed by the CCE/NPN of the decision to not request certification in a timely manner, and is informed of his/her right to obtain secondary review; this should occur ideally through a Clinic visit.
2. If the member disagrees with the decision to not request certification, s/he shall be given counsel regarding the secondary review process and provided a brochure detailing his/her rights in terms of obtaining a secondary review. To initiate the secondary review process, the member must send a letter to the CCE/NPN Medical Director, or designee, which clearly indicates his/her request to obtain secondary medical review;
3. The CCE/NPN Medical Director or designee then performs a review of the case. This designee can be a CCE physician at another CCE.
4. If the secondary review upholds the original decision to not request certification, then the CCE /NPN Medical Director must send a written letter to the member (within 4 weeks) which summarizes the decision and provides a reasonably full explanation of how this

decision was made. A copy of this letter should be sent to the WTC Program Administrator.

5. If the secondary review finds that WTC-relatedness is supported, the CCE/NPN Medical Director must send a written letter to the member informing him/her of this decision. This letter should state that a WTC-3 request for certification will now be sent to the WTC Health Program, with an attestation coming from the physician who performed the secondary review.
6. The CCE/NPN shall track all secondary review decisions and may make recommendations to the WTC Program Administrator, as appropriate, when such decisions point to a need for an evaluation or change to Program policies and procedures.

Disposition: Retain until incorporated into the WTC Health Program Policy and Procedures Manual.

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