



Medical Care Availability and Reduction of Error Fund

PENNSYLVANIA INSURANCE DEPARTMENT

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SUBJECT: Unreported Medical Malpractice Coverage

As you are aware, Act 88 of 2005 approved a one-year extension of the Abatement Program, and for the first time granted Pennsylvania nursing homes the opportunity to apply for a 50% abatement of their 2006 Mcare assessments.

Mcare informed each nursing home administrator on January 6, 2006, of the opportunity for nursing homes to participate in the Abatement Program for 2006, as well as application instructions. Part of the application process requires answering certain "Practice History" questions that will determine a nursing home's eligibility under section 1103 of Act 88 (40 P.S. § 1303.1103.). In particular, there is a question regarding outstanding Mcare surcharges or assessments. In an effort to answer this question correctly, many nursing home administrators have contacted Mcare to verify this information, only to learn that their nursing homes' eligibility status may be in jeopardy due to the fact that Mcare has not received the mandatory coverage information or remittance for one or more assessment years.

As a result of these inquiries, it is apparently necessary to remind insurers and agencies of their fiduciary and legal responsibility under the Mcare Act to make certain that the applicable Mcare assessment is timely collected, reported and remitted to Mcare on behalf of each participating health care provider and eligible entity it insures within 60 calendar days of the issuance of a basic insurance coverage policy.

Mcare will not provide indemnity coverage or a defense for a claim that is made or occurs if a health care provider, eligible professional corporation, eligible professional association or eligible partnership fails to pay all monies due to Mcare prior to that claim being first reported to the health care provider, the primary insurer or Mcare for the basic insurance coverage period that is applicable to the occurrence that is the basis for the claim (40 P.S. §§ 1303.701, et seq.).

Mcare will begin formal noncompliance actions against those health care providers for whom no coverage has been properly reported or remitted to Mcare. Please note that noncompliance actions may deem a health care provider ineligible for abatement of their 2006 or future Mcare assessment.

If you have any questions, please contact me at (717) 783-3770 x 206.

Very truly yours,

Robert W. Waeger

Robert W. Waeger, Director

Bureau of Medical Malpractice Administration