



## Utilization Review Newsletter—January 2010

In a recent *en banc* decision, *Cervantes vs. El Aguila Food Products, Inc.*, the WCAB issued an opinion addressing utilization review (UR) and the spinal surgery second opinion (SSSO) process.

The opinion concludes the following:

- When a treating physician recommends spinal surgery, a defendant must undertake UR.
- If UR approves the requested spinal surgery, or if the defendant fails to timely complete UR, the defendant must authorize the surgery.
- If UR denies the spinal surgery request, the *defendant* may object under section 4062(b), but any objection must comply with AD Rule 9788.1 and use the form required by AD Rule 9788.11.
- The defendant must complete its UR process within 10 days of its receipt of the treating physician's report, which must comply with AD Rule 9792.6(o), and, if UR denies the requested surgery, any section 4062(b) objection must be made within that same 10-day period.
- If the defendant fails to meet the 10-day timelines or comply with AD Rules 9788.1 and 9788.11, the defendant loses its right to a second opinion report and it must authorize the spinal surgery.

In addition, the DWC has clarified that a request for further information **does not delay** the deadline for decision to 14 calendar days. The UR decision date for spinal surgery requests **can not** be extended beyond the 10th calendar day. RWI is recommending to all our clients that UR of spinal surgery requests be made a priority. Expediting UR of requests for spinal surgery gives the claims administrator more flexibility in determining whether to object and initiate the SSSO process.

In order to assist our clients with adjusting to this change, RWI has made the following changes to our workflow:

- Spinal surgery reviews will not be delayed and will be completed within 5 business days. This gives the claims administrator time to object.
- Language on all modification and non-certification letters has been adjusted to reflect the fact that only the employer/claims administrator may initiate the 4062 (b) SSSO process.

**Should you have any questions, or would like further information, please contact Sharon Douglas or Alex Mellor at 800.889.1777.**