

<b>Z E N I T H M E D I C A L P R O V I D E R N E T W O R K P O L I C Y</b>	
<b>Title:</b>	California Continuity of Care Policy
<b>Application:</b>	Zenith Insurance Company and Wholly Owned Subsidiaries
<b>Policy Number:</b> CA002	<b>Issued:</b> December 28, 2007 <b>Revised:</b> February 18, 2020
<b>Approved By:</b> Rupali Das, MD, SVP and California Medical Director; Jennifer Savoy, Director-Clinical Quality and Compliance; Sharon Hulbert, VP and Assistant General Counsel	

**POLICY STATEMENT**

It is Zenith Insurance Company’s (“Zenith”) policy to transfer medical care to an existing Zenith Medical Provider Network (“ZMPN”) provider when an Injured Employee is obtaining care from a Terminated Provider. Zenith will comply with all applicable Continuity of Care laws and regulations when transferring an Injured Employee to another provider within the ZMPN.

**PURPOSE**

This policy provides processes to determine whether an Injured Employee meets the requirements for Continuity of Care when the Injured Employee is being treated by a Terminated Provider. Nothing in the Policy precludes Zenith from allowing treatment to continue with a Terminated Provider outside of the ZMPN.

**STANDARDS**

In order to qualify for Continuity of Care, the Injured Employee must be receiving ongoing care for one of the following conditions from the Terminated Provider at the time the provider’s participation in the ZMPN terminates:

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. Zenith will review such treatment and the rationale for non-ZMPN treatment and render a Continuity of Care determination. If it is determined that an acute condition exists for a compensable claim and therefore, Continuity of Care applies, the completion of treatment will be provided for the duration of the acute condition.
2. **A serious chronic condition.** A serious chronic condition is 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 an extended period of time of at least ninety (90) days and requires ongoing treatment to maintain remission or prevent deterioration. Completion of treatment shall be authorized for a period of time necessary to:
  - a. complete a course of treatment that has been approved by either Zenith or the employer; and
  - b. to arrange for transfer to a provider within the ZMPN, as determined by Zenith in consultation with the Injured Employee and the Terminated Provider.

Treatment under Continuity of Care for a serious chronic condition shall not exceed twelve (12) months from the date Zenith notifies the Injured Employee of the Terminated Provider's removal from the ZMPN and requests the Injured Employee transfer to a provider in the ZMPN.

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 and has been recommended and documented by the Terminated Provider to occur within one hundred and eighty (180) days of the date the Terminated Provider was removed from the ZMPN.

If the Injured Employee does not qualify for Continuity of Care, the Injured Employee's ongoing care will be transferred to an existing ZMPN provider. Nothing in this Policy prohibits Zenith, in its sole discretion, from permitting Continuity of Care beyond that required by this Policy, law or regulation.

## DEFINITIONS

1. "Continuity of Care" allows an Injured Employee to continue treatment with a non-ZMPN provider when Zenith has removed or terminated the provider from its network for reasons other than a Medical Disciplinary Cause or Reason, fraud or other criminal activity or when Zenith, in its sole discretion, determines that care should be continued with a non-ZMPN provider due to clinical or business reasons. Continuity of Care becomes applicable on the first date that the Terminated Provider's contract with the ZMPN is no longer in effect.
2. "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.
3. "Medical Disciplinary Cause or Reason" means any aspect of a provider's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care.
4. "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.
5. "Terminated Provider" means a ZMPN provider whose participation in the ZMPN ceases either through voluntary withdrawal from the ZMPN or Zenith's or a Zenith vendor's removal of the provider from the ZMPN.
6. "Treating Physician" or "Secondary Physician" means any physician within the ZMPN other than the Primary Treating Physician who examines or provides treatment to the Injured Employee, but is not primarily responsible for continuing management of the care of the Injured Employee. It may also include a physician outside of the ZMPN who Zenith authorized to treat the Injured Employee.
7. "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

### **Continuity of Care – Terminated Providers – Required by Labor Code 4616.2**

Continuity of Care is required when an Injured Employee is receiving ongoing care from a Terminated Provider if the Injured Employee meets the criteria for Continuity of Care set forth in the Standards section above and the Injured Employee submits a request for Continuity of Care.

Continuity of Care will not be provided if a Terminated Provider was terminated or not renewed due to a Medical Disciplinary Cause or Reason, fraud or other criminal activity. In these circumstances, care will be immediately transferred to an existing ZMPN provider.

### **Injured Employee Request for Continuity of Care**

Injured Employees may request Continuity of Care to continue treatment with a Terminated Provider. A request for Continuity of Care may be submitted verbally or in writing to the Injured Employee's assigned claims examiner. A request for Continuity of Care is not required to use the words "Continuity of Care" but may be a statement that indicates the Injured Employee does not want to change providers or other words to that effect.

If no request for Continuity of Care is received by Zenith, the Injured Employee's care will be transferred to an existing ZMPN provider.

### **Continuity of Care – Sole Discretion of Zenith – Permitted but Not Required by Labor Code 4616.2**

Pursuant to Labor Code 4616.2(d)(7), Zenith may, in its sole discretion, provide Continuity of Care beyond that required by law or regulation. If an Injured Employee requests Continuity of Care, but the Injured Employee does not meet the requirements for Continuity of Care, Zenith may determine that continued treatment with the Terminated Provider is still appropriate due to business and/or clinical considerations.

When a provider is removed or terminated from the ZMPN, Zenith shall decide whether to direct the Injured Employee to a new provider that is in the ZMPN utilizing the Continuity of Care review process or may decide to allow the Injured Employee to continue care with the Terminated Provider. Zenith may request the Injured Employee to transfer to a provider in the ZMPN at a later date but must follow the Continuity of Care process if the Injured Employee requests the right to continue treatment with the Terminated Provider.

### **Situations in which Zenith might allow discretionary Continuity of Care include but are not necessarily limited to the following:**

1. An Injured Employee is expected to complete care within a very short period of time such as 1-2 days;
2. An Injured Employee only has a follow-up visit remaining prior to being fully released from the Terminated Provider's care;
3. An Injured Employee is receiving ongoing care for a condition that does not meet one of the requirements set forth for Continuity of Care under the Standards section of this Policy, but Zenith in its sole discretion determines that continuing care with the Terminated Provider is appropriate under the circumstances presented.

Discretionary Continuity of Care may be provided for a limited period of time in order to arrange for transfer of care to a ZMPN provider or for the duration of care at the sole discretion of Zenith.

If Continuity of Care is provided pursuant to Zenith's sole discretion, Zenith will notify the Injured Employee of the determination and indicate the estimated length of time for which care will be continued.

## **Review Process for Request for Continuity of Care**

Upon receipt of a request for Continuity of Care by an Injured Employee, Zenith will review ongoing treatment to determine if the Terminated Provider will be authorized to continue to provide treatment that is subject to coverage through the workers' compensation system. Reviews will be performed following Zenith's established workflows.

The claims examiner is responsible for assuring that notice of Zenith's determination as to the applicability of Continuity of Care, and whether or not the Injured Employee will be required to select a new provider from within the ZMPN, is sent to the Injured Employee's address in both English and Spanish and sent to the injured employees primary treating physician.

## **Provider Agreement to Continuity of Care**

1. When Zenith determines that Continuity of Care is required or will be provided at Zenith's sole discretion, the Terminated Provider may be asked to agree in writing that all care provided after the ZMPN termination date be:
  - a. subject to the same contract terms that were in effect immediately prior to the ZMPN termination; and
  - b. compensated for at the same rate and under the same method of payment as contracted providers providing similar services in the same or similar geographic area as the Terminated Provider. This may, but will not necessarily be, the same rate that was in effect for the Terminated Provider immediately prior to the ZMPN termination date. Zenith employees should work with Zenith's Provider Relations department to determine the appropriate rate to be offered to the Terminated Provider.
2. If the Terminated Provider does not agree in writing to the application of the contract terms and the compensation rates within a reasonable time prior to the Terminated Provider's ZMPN termination date, Zenith may in its sole discretion elect to transfer care to an existing ZMPN provider. Zenith may also in its sole discretion elect to permit the Injured Employee to continue care with the Terminated Provider and reimburse the Terminated Provider at fee schedule.
3. Zenith will not agree to the completion of treatment by a provider whose contract was terminated or not renewed for reasons relating to a Medical Disciplinary Cause or Reason, fraud or other criminal activity. Under these circumstances, Zenith will require immediate transfer of care to an existing ZMPN provider.

## **Dispute Resolution**

The Injured Employee may dispute Zenith's determination that the employee's medical condition does not qualify for Continuity of Care. 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 Primary Treating Physician that addresses the medical condition or situation that qualifies the Injured Employee for Continuity of Care under Section 1 – 4 under the Standards section of this Policy. The Terminated Provider 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 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 Treating Physician issues the report and either Zenith or the Injured Employee objects to the medical determination made by the Treating Physician concerning Continuity 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 does not meet the criteria for Continuity of Care, the Injured Employee must choose a new provider from within the ZMPN and care will be transferred to that provider during the dispute resolution process.

If the Treating Physician report does not agree with Zenith's determination that the Injured Employee's medical condition does not qualify for Continuity of Care, the Injured Employee will continue to treat with the Terminated Provider until the dispute is resolved. Whenever care is continued with the Terminated Provider, the procedures, requirements and conditions set out above under the Provider Agreement to Continuity of Care section of this Policy will apply.