

**Commonwealth of Kentucky
Department of Workers' Claims
Office of the Commissioner**

“BULLETIN”

**RE: "Any Willing Provider" Rule; U.S. Supreme Court Decision;
Impact on Workers' Compensation Managed Care Plans**

In light of the recent decision of the United States Supreme Court in the case of Kentucky Association of Health Plans, Inc. et al v. Janie A. Miller, Commissioner, Kentucky Department of Insurance, (decided April 2, 2003), the Department of Workers' Claims has received several inquiries concerning what impact this case and the "any willing provider" laws will have on the workers' compensation managed health care system. KRS 342.020; 803 KAR 25:110. Having reviewed the Supreme Court decision as well as the applicable statutes and regulations, the Department has concluded that, for the following reasons, Miller will have no impact on the current managed care system.

It is initially noted that the statutes discussed in Miller, KRS 304.17A-171 and KRS 304.17A-270, involve "health benefit plans" regulated by the Department of Insurance and its Commissioner. The managed care system set out in KRS 342.020, however, is regulated by the Department of Workers' Claims. Moreover, the definition of a "health benefit plan" found at KRS 304.17A-005(18) specifically exempts "policies covering . . . insurance arising out of a workers' compensation or similar law."

In KRS 304.20-090, the Department of Insurance classifies workers' compensation coverage as casualty insurance rather than health insurance. In addition, the list of "excepted benefits" found at KRS 304.17A-005(11) contains a specific exemption for "workers' compensation and similar insurance."

It is clear that workers' compensation insurance is not considered health insurance and is specifically exempted from the definition of a "health benefit plan." Therefore, the "any willing provider" rule found in KRS 304.17A-171 and KRS 304.17A-270 would not apply to the Kentucky workers' compensation managed care system and the approval of that rule in Kentucky Association of Health Plans, Inc. et al v. Janie A. Miller, Commissioner, Kentucky Department of Insurance will have no impact on the current managed care system.

This 8th day of May, 2003.



Larry M. Greathouse, Commissioner