

## § 88.23

rate, as determined appropriate by the Administrator.

(ii) The Administrator will reimburse a CCE or NPN-affiliated provider for treatment for which neither FECA nor Medicare fee for service rates have been established, at rates as determined appropriate by the Administrator.

(2) If the treatment is determined not to be medically necessary or is inconsistent with WTC Health Program protocols, the Administrator will withhold reimbursement.

(c) *Outpatient prescription pharmaceuticals.* Payment for costs of medically necessary outpatient prescription pharmaceuticals for a WTC-related health condition or health condition medically associated with a WTC-related health condition will be reimbursed by the WTC Health Program under a contract with one or more pharmaceutical benefit management services.

### § 88.23 Appeal of reimbursement denial.

After exhausting procedural and/or contractual administrative remedies, a CCE or NPN medical director or affiliated provider may submit a written appeal of a WTC Health Program decision to withhold reimbursement or payment for treatment found to be not medically necessary or not in accordance with approved WTC Health Program medical treatment protocols pursuant to § 88.20 of this part. Appeal procedures are published on the WTC Health Program Web site.

### § 88.24 Coordination of benefits and recoupment.

The WTC Health Program will attempt to recover the cost of payment for treatment, including pharmacy benefits, for a WTC Health Program member's certified WTC-related health condition or health condition medically associated with a WTC-related health condition by coordinating benefits with any workers' compensation insurance available<sup>2</sup> for members'

<sup>2</sup>As described in PHS Act, sec. 3331(b). To the extent that payment for treatment of the member's work-related condition has been made, or can reasonably be expected to be made, under any other work-related in-

## 42 CFR Ch. I (10-1-24 Edition)

jury or illness benefit plan of the member's employer, the WTC Health Program will also attempt to recover the costs associated with treatment, including pharmacy benefits, for the member's certified WTC-related health condition or health condition medically associated with a WTC-related health condition. See PHS Act, sec. 3331(b)(1). For purposes of this regulation, "workers' compensation law or plan" or "workers' compensation insurance" includes any other work-related injury or illness benefit plan of the WTC Health Program member's employer.

work-related health conditions, and with any public or private health insurance available<sup>3</sup> for members' non-work-related health conditions.

(a) Where a WTC Health Program member's WTC-related health condition or health condition medically associated with a WTC-related health condition is eligible for workers' compensation or another illness or injury benefit plan to which New York City is obligated to pay, the WTC Health Program is the primary payer.

(b) Where a WTC Health Program member has filed a workers' compensation claim for a WTC-related health condition or health condition medically associated with a WTC-related health condition and the claim is pending, the WTC Health Program is the primary payer; however, if the claim is ultimately accepted by the workers' compensation board, the workers' compensation insurer in question is responsible for reimbursing the WTC Health Program for any treatment provided and/or paid for during the pendency of the claim.

(c) Where a WTC Health Program member has filed a workers' compensation claim for a WTC-related health condition or health condition medically associated with a WTC-related health condition, but a final decision is issued denying the compensation for the claim, the WTC Health Program is the primary payer.

(d) Where a WTC Health Program member has filed a workers' compensation claim for a WTC-related health condition or health condition medically associated with a WTC-related health condition with a workers' compensation plan to which New York City is not obligated to pay, the workers'

<sup>3</sup>As described in PHS Act, sec. 3331(c).