

LEGISLATIVE NEWSLETTER

Updates on key state and national level legislative & regulatory news, and their potential impacts on the workers' compensation industry.



QUARTER 2 | 2019

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CALIFORNIA

Senate Passes Comp Bills

Senate Bill 731, by Senator Steven Bradford, passed on May 21st with a vote of 38-0. With the intent to eliminate discrimination in the workers' compensation system, the bill would prohibit consideration of race, religious creed, color, national origin, age, gender, marital status, sex, sexual identity, sexual orientation, or genetic characteristics when apportioning permanent disability caused by non-industrial factors.

The Senate also voted 38-0 to pass Senate Bill 537, by Sen. Gerald Hill, which covers a number of issues.

SB 537 would require every medical provider network to post a list of all network physicians, including physical therapists, to its website and to provide that website and its list of network physicians, including physical therapists to the administrative director. The bill would give the administrative director discretion to investigate complaints and take action against medical provider networks for noncompliance issues regarding the web address and list requirements for those networks.

The bill would require an itemized request for payment for services provided on or after July 1, 2020, to be submitted to an employer with the provider physician's national provider identifier number.

SB 537 would also require a contracting agent, employer, or carrier to provide a medical provider or facility with a rate sheet if a contracted rate differs from those in the Official Medical Fee Schedule. A contracting agent would also be required to provide a rate sheet to the employer or carrier if the contracted rate is more than 15% below the Official Medical Fee Schedule.

Amendments were made to the bill which is in the Assembly Appropriations Committee for a hearing scheduled for August 30th.

[SOURCE 1](#) | [SOURCE 2](#)

NEW YORK

Proposed Regulation for Expanded Provider List

A new law was passed expanding the types of medical providers that may be authorized to treat injured workers in New York State's workers' compensation system. Starting January 1, 2020, licensed clinical social workers, nurse practitioners, acupuncturists, as well as current ancillary providers, including physician assistants, occupational therapists, and physical therapists may apply to become a Board-authorized provider.

The expansion of the provider list will allow access to different types of providers and types of medical care for injured workers.

The Board has proposed 12 NYCRR 323.1 that describes the process for applying for Board authorization to treat injured workers. Amendments to Part 324 and 325-1.4 have been proposed to add the new providers into the Medical Treatment Guidelines variance (Attending Doctor's Request for Approval of Variance and Carrier's Response (Form MG-2)) and prior authorization (Attending Doctor's Request for Authorization and Carrier's Response (Form C-4AUTH)) processes.

The proposed regulation and amendments were published in the *State Register* and on the Board's website. Public comments were accepted for 60 days through August 18, 2019. Since the statute takes effect next January, there should be plenty of time for a smooth implementation.

SOURCE

NEW YORK

Implementation Underway for Drug Formulary

The Prescription Drug Formulary, implemented on June 5, 2019, requires all new prescriptions to comply with requirements of the Formulary by December 5, 2019, and all refills and renewals comply by June 5, 2020.

The Formulary identifies prescriptions using three lists: Phase A for prescriptions within the first 30 days after an injury, Phase B for prescriptions after the first 30 days after an injury, and Perioperative for drugs used Perioperative period which is four days before and four days after an injured worker enters a hospital, clinic, or doctor's office for surgery.

Important definitions to remember:

- A new prescription is a prescription for a drug that the patient is not currently taking.
- A refill is a subsequent fill of a prescription and the number of refills is explicitly included in the original prescription.
- A renewal is a prescription that the injured worker has been taking but for which there are no available refills.

The Formulary does not include narcotics after the first 30 days following an injury (except the immediate pre- and post-operative period). Starting December 5, 2019, narcotics/opioids may not exceed a single seven-day supply during the 30 days after an injury. Prior to June 5, 2020, medical providers and injured workers must plan for a transition to a Drug Formulary medication. The medical provider must obtain prior authorization for a refill or renewal of a non-formulary narcotic/opioid in advance of June 5, 2020, if such a transition is not medically appropriate.

Notification that a current prescription is not on the Formulary must be sent to medical providers and injured workers by December 5, 2019.

If a currently prescription is not on the Formulary, insurers, self-insured employers, and third-party administrators must send notification to providers and injured workers by December 5, 2019. Such notifications must be in the format required by the Chair.

The Chair provides examples of the required format in the *Injured Worker Formulary Notification* and *Provider Formulary Notification*.

[SOURCE 1](#) | [SOURCE 2](#)

KENTUCKY

Drug Formulary Adopted

The Kentucky Department of Workers' Claims has adopted a pharmaceutical formula published by ODG by MCG Health to be used to facilitate the appropriate use of prescription drugs to treat work-related injuries or occupational diseases.

Prescription drugs listed in the formulary are assigned a status of "Y" or "N."

Drugs assigned a "Y" status do not require utilization review and may be dispensed without preauthorization. Drugs assigned an "N" status, compound drugs, and drugs not listed in the formulary require preauthorization.

For claims with dates of injury and last exposures on or after January 1, 2019, formulary guidelines apply to prescriptions written on or after July 1, 2019.

For claims with dates of injury and last exposures prior to January 1, 2019, formulary guidelines apply on July 1, 2019, for a prescription that is not a refill, and on January 1, 2020, for a refill prescription initially prescribed prior to July 1, 2019.

The difference in effective dates allows prescribing providers and injured workers time to consider options for continued treatment.

A training webinar is available online [here](#). Support and training is also available through the ODG Helpdesk at 800-488-5548 or online at odghelp@mcg.com.

[SOURCE](#)

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