

Compliance and Regulations Newsletter

Demetria Woodson

Manager of Compliance and Regulations, EK Health

CALIFORNIA

Emergency Services Bill Passes in Committee

Existing law requires requests for payment for treatment not subject to prospective UR to be submitted to the employer, its insurer, or claims administrator within 30 days of the date the service was provided.

Concerns arose that the 30-day billing deadline may not allow sufficient time in a case where a worker who suffered a severe injury may not be able to communicate where he or she was injured and under what circumstances until after the 30-day billing period has lapsed.

The Senate Labor and Industrial Relations Committee members passed [SB 489](#) on April 5th with a vote of 5-0. This bill, sponsored by Senator Steven Bradford, would require providers of emergency treatment to submit bills for payment to the employer, its insurer, or claims administrator within 180 days of the date the service was provided.

The bill was read a second time and ordered to a third reading in the Senate on April 18th.

[Source](#)

MARYLAND

Proposed Bill Would Increase Submission Deadline

The Maryland General Assembly passed several workers' compensation bills earlier this month, including one that requires providers to bill for treatment within 12 months or risk not being paid.

[House Bill 1484](#), by Delegate Cheryl Glenn, would require a provider who renders medical service or treatment to a covered employee to submit the bill to the employer or the employer's insurer within 12 months from the date medical treatment was provided, the date the claim was accepted by the employer or the employer's insurer, or the date the claim was determined by the Commission to be compensable, whichever is later. Current law requires a bill to be submitted within 45 days of the date medical service or treatment is provided.

If HB 1484 is signed into law, the employer or the employer's insurer may not be required to pay a bill submitted more than 12 months after medical service or treatment was provided to a covered employee except when the Workers' Compensation Commission excuses the untimely submission for good cause. To be considered for "good cause", the provider must file an application for payment with the Commission within three years from the later of: the date the medical service or treatment was provided, the date the claim was accepted by the employer or employer's insurer, or the date the Commission determined the claim was compensable.

The bill, which passed in the House 104-37 on March 11th and in the Senate 45-0 on March 27th, will be effective October 1, 2017, if signed into law by Governor Lawrence "Larry" Hogan Jr.

[Source](#)

TENNESSEE

Bill's Primary Goal to Reduce Utilization Review Appeals

[Senate Bill 0297](#), which passed the Senate 28-0 on April 13th, limits services subject to utilization review to medical services with a cost of \$1,500 or more.

Creating the \$1,500 threshold for medical services before a provider could avail themselves to appeal procedures for utilization review is anticipated to reduce the number of appeal reviews processed by the Bureau of Worker's Compensation. Of approximately 1,550 appeals received and processed by the BWC's Medical Director each year, approximately 580 cases would fall below the proposed \$1,500 threshold.

The bill was amended to specify that a recommended invasive procedure will be subject to utilization review at any time. The amendment also states, except for a recommended invasive procedure, utilization review will not apply to:

- 1) Diagnostic procedures ordered in accordance with treatment guidelines by the authorized treating physician or chiropractor within the first 30 days after the date of injury; or
- 2) Diagnostic studies recommended by the treating physician in cases where the initial treatment plan is nonsurgical, without diagnostic testing, and are not successful in returning the injured worker to employment.

Under current law, the employer must provide a panel of independent reputable physicians, surgeons, chiropractors, or specialty practice groups within a 100-mile radius of the employee's county of residence in cases when the employer cannot provide a panel of at least three providers in the employee's community.

The amendment increases the radius from an employee's community of residence from which an employer must provide a panel of independent reputable providers from 100 miles to 125 miles and requires two of the list of three independent reputable physicians, surgeons, chiropractors, or specialty practice groups must not be associated in practice together.

The maximum amount to be paid by an employer for burial expenses in cases where death results from injury or occupational disease would increase from \$7,500 to \$10,000.

[HB 0666](#), the House companion bill, was referred to the Calendar & Rules Committee on April 12th.

[Source 1](#)

[Source 2](#)

TEXAS

Proposed Bill to Exclude Compounds from Closed Formulary

[House Bill 2830](#), which would exclude compounded pharmaceuticals from the closed formulary, went before the House Business and Industry Committee on April 10th.

The bill, sponsored by Rep. Rene Oliveira, would amend Labor Code Section 408.028 (b) indicating rules adopted by the workers' compensation commissioner for a closed formulary under Section 413.011 "may exclude compounded pharmaceutical medications from the closed formulary."

Texas closed formulary rules were adopted in 2011 and allow compounded drugs if their ingredients are listed as "Y" drugs in the Official Disability Guidelines Workers' Compensation Drug Formulary.

Prior to the 2011 implementation of the closed formulary, reimbursement for compounds accounted for a small percentage of total prescription reimbursement. Total pharmacy costs decreased; however, pharmacy costs for compounds increased. Concerns raised include the following: increase in the number of compounds dispensed, increase in cost of compounds, lack of preauthorization requirements for all compounds, and lack of evidence of the efficacy of compounds.

The introduction of HB 2830 shows the Texas Legislature has concerns about practices in the workers' compensation system regarding certain compounds that have no proven efficacy. If the bill passes, injured workers would be able to obtain compounds through the preauthorization process which should provide a careful examination process to ensure workers obtain safe, effective drugs.

Testimony was taken during a public hearing on April 10th, and the bill was left pending in the House Business and Industry Committee. If passed, the bill would be effective September 1, 2017.

[Source 1](#)

[Source 2](#)