



WORKERS' COMPENSATION

LEGISLATIVE NEWSLETTER

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

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CALIFORNIA

CA DWC Issues Notice of Proposed Changes to Pharmaceutical Fee Schedule

Below are proposed changes to the California Pharmaceutical Fee Schedule:

Maximum reimbursement for legend and non-legend drugs dispensed by a pharmacy shall be the lower of the drug's ingredient cost, times the number of units dispensed, plus the appropriate dispensing fee, or the pharmacy's usual and customary charge to the public, based on the date the drug is dispensed.

The drug's ingredient cost means the lowest of the National Average Drug Acquisition Cost (NADAC), or when no NADAC is available, the Wholesale Acquisition Cost (WAC) + 0%, or the Federal Upper Limit (FUL), or the Maximum Allowable Ingredient Cost (MAIC).

If a prescriber indicates on a prescription "Do Not Substitute", "Dispense as Written" or words with similar meaning for a brand name drug, maximum reimbursement for a legend or non-legend brand name drug dispensed by a pharmacy is the lower of: the "No Substitution" fee (the NADAC of the drug, or when no NADAC is available, the Wholesale Acquisition Cost (WAC) + 0%), plus the appropriate dispensing fee, or the pharmacy's usual and customary charge to the public, based on the date the drug is dispensed.

The proposed two-tier dispensing fee shall be as follows:

\$13.20 for a pharmacy whose National Provider Identifier is designated by the Medi-Cal National Provider Identifier file as eligible on the date the drug is dispensed. Medi-Cal-enrolled pharmacies with a total annual prescription volume of less than 90,000 would be eligible for this dispensing fee.

\$10.05 for pharmacies with a total annual prescription volume of 90,000 or more. Medi-Cal-enrolled pharmacies wanting to receive the higher dispensing fee must submit a "self-attestation" of total claim volume for the previous calendar year during a specific attestation period. The attestation for the previous calendar year determines the eligibility for the higher dispensing fee for the following California state fiscal year.

A public hearing was held April 11, 2024, and written comments were accepted through the end of the same day. The CA DWC indicated it would consider all public comments and may revise the proposed regulations during an additional 15-day public comment period.

The history of this rulemaking process can be found [HERE](#).

FLORIDA

Bills Would Increase Physician Reimbursements and Witness Fees

[House Bill 161](#) and [Senate Bill 362](#) sought to increase maximum reimbursements for physicians and surgical procedures under workers' compensation as well as increased witness fees related to workers' compensation cases.

Maximum reimbursement for physicians would increase from 110% of the Medicare reimbursement to 175%. The bill would also increase maximum reimbursement for surgical procedures from 140% of the Medicare rate to 210%.

HB 161 and SB 362 would increase witness fees for health care providers giving a deposition from \$200 per hour to \$300 per hour. Expert witnesses who have not provided direct professional services and have only reviewed medical records and provided an expert opinion would see an increase from \$200 per day to \$300 per day.

House Staff Bill Analysis shows workers' compensation claim costs in litigated cases may increase. The analysis also stated if the increased claim costs are significant enough, it may lead to increased workers' compensation premiums paid by employers.

HB 161 was passed on March 6, 2024, and SB 362 was passed on March 7, 2024. If signed by the Governor, the bill will be effective January 25, 2025.

Increased Fees For Medical Specialists

Medical specialists would see increased reimbursements under [Senate Bill 808](#) and companion bill [House Bill 637](#) for treatment of certain conditions for specific workers. Physicians board certified in a specialty that includes treatment of tuberculosis, heart disease, or hypertension who treat firefighters, law enforcement officers, correctional officers, and correctional probation officers would see reimbursement rates increased to 200% of Medicare for treatment of a compensable workers' compensation injury.

SB passed on February 29, 2024, and HB passed on 3/5/2024. The measure shall be effective October 1, 2024.

EK Health Services Inc. is a leading national workers' compensation managed care organization. EK Health restores quality of life for injured workers through innovative, cost-effective solutions, while providing client services with high-touch experiences, customizable solutions, lower costs, and proven results. Our holistic approach integrates the best people, processes, and technology to facilitate the best medical treatment available for return-to-work possibilities.

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