

Compliance and Regulations Newsletter

Demetria Woodson

Manager of Compliance and Regulations, EK Health Services, Inc.

CALIFORNIA

Work Comp Bills to be Considered After Summer Break

State legislators will consider numerous workers' compensation bills when they return from summer recess. The Assembly has not yet published a schedule, but the Senate will consider several work comp bills on their first day back including the following:

- SB 489, by Senator Bradford, would give providers of emergency treatment services 180 days within the date of service to submit bills, instead of 30 days as currently allowed.
- SB 617, by Bradford, would require the Division of Workers' Compensation to send letters to providers who have a disproportionate number of medical treatment disputes with employers.

[Source 1](#)

[Source 2](#)

DWC Revises Proposed Drug Formulary Regulations

The California Department of Workers' Compensation released revised formulary rules which include a new dispute resolution process involving the formulary and a more detailed process for developing a transition plan for injured workers on non-exempt drugs.

Assembly Bill 1124 instructed the DWC to implement a drug formulary by July 1, 2017. However; the DWC decided to delay implementation until January 1, 2018, so more time could be afforded to stakeholders. This change was noted in the revised proposed rules.

Some terminology was changed in the revision. Drugs that require prospective review are now referred to as “non-exempt” and drugs that do not require prospective review are referred to as “exempt.” The previous version of the rule referred to them as “preferred” and “non-preferred” drugs.

Another change adds a process for requiring treaters to develop a transition plan for patients on non-exempt drugs or present a justification for continuing. Treating physicians would be required to submit a progress report addressing the worker’s drug treatment plan. Such a report must include a process to transition the worker to an exempt drug or provide documentation for the medical necessity of the non-exempt drug. The progress report, including a treatment plan and Request for Authorization must be submitted at the time the next progress report is due. If that is not feasible, the report must be submitted no later than April 1, 2018.

Language stating the claims administrator cannot unilaterally terminate or deny previously approved drug treatment was deleted from the revised rules. Also deleted was the following statement: “If authorization through prospective review is not obtained prior to dispensing the drug, payment for the drug may be denied if it is determined upon retrospective review that the drug treatment was not medically necessary.

Written comments were accepted on the revised rules and proposed MTUS Drug List. The DWC is expected to post these comments soon.

[Source 1](#)

[Source 2](#)

HAWAII

Governor Signs Chaperone Bill

Hawaii Gov. David Ige signed Senate Bill 859, by Senator Gilbert Agaran, into law. This bill allows injured workers to bring chaperones to examinations and to record the examination.

The employee would have the right to have a chaperone designated and paid by the employee present at the examination. The employee would also have the right to record the examination by a recording device designated and paid for by the employee if the examining physician or surgeon approves of the recording.

If the employee or the employee’s designated chaperone obstructs the examination, the employee’s right to claim compensation shall be suspended until the obstruction ceases.

SB 859 took effect on July 10th. The new provisions will be automatically repealed on June 30, 2019.

[Source](#)

TENNESSEE

BWC Reports to Legislature on Difficulty of Implementing a Drug Formulary

The Tennessee Bureau of Workers' Compensation released a report indicating implementation of a drug formulary has been more difficult than implementation of the rest of the guidelines.

One contributing factor is the lack of understanding the process of filling a prescription when a formulary is involved. Multiple people, such as prescribers, pharmacies, pharmacy benefit managers, claims adjusters, utilization review organizations, and other payers are involved in the process. With so many players involved, it is difficult for some injured workers and physicians to understand the process.

Another roadblock is resistance from injured workers who have been on opioids for a long time and have been taking high dosages. Such workers feel they cannot survive without taking opioids on which they have grown dependent. Physician resistance has been an issue as some physicians prescribe high doses although medical evidence proves this could be dangerous. Weaning injured workers from excessively high doses of opioids can be extremely difficult.

To help with problem areas, the Medical Advisory Committee has formed a subcommittee to develop alternative language governing certain situations.

[Source](#)