Workers' Comp

Kentucky Releases Revised Pharmacy Fee Schedule Draft Rule

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The Kentucky Department of Workers' Claims released a revised version of their draft pharmacy fee schedule rule, 803 KAR 25:092. This latest version responds to comments that were submitted by various stakeholders in writing and offered verbally at the January 21, 2021, hearing. The revised draft contains substantive changes from the original proposal, including:

- Updated definitions of brand and generic drugs and the addition of a definition of “usual and customary”
- Fee schedule section changed, removing contracted price language from the “lesser of” calculation and adjusting the reimbursement for generic drugs to 85% of the average wholesale price of the lowest therapeutic equivalent and for brand drugs to 90% of the average wholesale price
- Language around “dispense as written” requests simplified and the requirement that a reason be provided for the request removed
- Compounded medications would be eligible for a $20 compounding fee
- Language allowing contracting for prices lower that the fee schedule clarified

The next stop in the rulemaking process will be the Legislative Administrative Regulation Review subcommittee. The pharmacy fee schedule rule is on their April 12, 2021 tentative agenda. The committee will accept public comment at the hearing. The rule will become effective sometime following approval by the legislative committee, possibly mid-summer.

The revised pharmacy fee schedule proposal can be found here.
The Administrative Regulation Review Subcommittee meeting website can be found here.

For questions about this alert or information on other regulatory and legislative proposals, please contact Brian Allen, vice president of government affairs, at Brian.Allen@mitchell.com or at 801.903.5754.



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