Workers' Comp

Arizona Industrial Commission Proposes Changes to Pharmacy Fee Schedule

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Of particular interest are the proposed changes to the pharmacy reimbursement sections. These suggested changes were prompted by a directive in SB1111 and passed by the Arizona legislature in early 2018. The legislation directed the Industrial Commission to study pharmacy reimbursement for prescription drugs dispensed in non-retail settings. The proposed changes are a result of that study.

Summary of the Pharmacy Reimbursement Staff Proposal:

- Reimbursement for generic drugs will be 85% of average wholesale price (AWP).
- Reimbursement for brand name drugs will be 85% of average wholesale price (AWP).
- Reimbursement for non-traditional strength drugs will be based on the corresponding AWP of the most similar traditional strength form of the same medication. The NDC (National Drug Code) of the non-traditional strength medication may not be used.
- Pharmacies and payers may contract for lower rates.
- Repackaged medications will be reimbursed at the fee schedule rate based on the NDC of the original manufacturer's product used in repackaging. The NDC of the repackaged medication may not be used.
- Components of a co-pack drug without an NDC will not be reimbursed.

Compound Medications

- Reimbursement for compounded medications will be based on the following conditions:
    - All ingredients must be included on a single bill.
    - Reimbursement will be calculated at the fee schedule rate for each individual ingredient.
    - Ingredients without an NDC will not be reimbursed.

- Any ingredient in a topical compound that is not FDA approved for topical use will not be reimbursed.
- Any component that is repackaged will be reimbursed based on the NDC of the original manufacturer's product used.
- Maximum reimbursement for a compound drug will be the lesser of $200 for a 30-day supply (pro-rated if amount is greater or less than a 30-day supply) or the value of the compounded medication based on ingredient-level reimbursement.

Medications Dispensed by Medical Practictioner

- Medications administered by a medical practitioner will be reimbursed based on this fee schedule.
- Medications dispensed by a medical practitioner or a pharmacy not accessible to the general public must meet all of the following conditions to qualify for reimbursement:
  - The medication is dispensed by a medical practitioner providing initial treatment to the injured employee following an injury.
  - The medication is limited to no more than a one-time, 10-day supply.
  - The medication is dispensed within seven days from the date of injury.
  - The medication conforms to dosages and formulations that are commercially available in pharmacies accessible to the general public.
- There are exceptions to the limits placed on dispensing medical practitioners noted above if all of the following apply:
  - The injured employee does not have access to a pharmacy within 20 miles of their home address, work address or the office address of the medical practitioner.
  - The injured employee does not have reasonable access to an online or mail order pharmacy that is accessible to the general public.
  - The medication conforms to dosages and formulations that are commercially available in pharmacies accessible to the general public.
- Medications dispensed by a medical practitioner or pharmacy upon an in-patient discharge are reimbursable if all of the following apply:
  - The medication is dispensed by a hospital medical practitioner upon discharge from in-patient care.
  - The medication is limited to no more than a one-time, 30-day supply.
  - The medication conforms to dosages and formulations that are commercially available in pharmacies accessible to the general public.
- The limitations placed on the dispensing of medications by medical practitioners or pharmacies not accessible to the general public may be waived by pre-approval for the insurance carrier or employer.

Other

- These guidelines do not apply to medications dispensed during hospital in-patient care.
- Over-the-counter medications will be reimbursed at the retail price of the medication in the setting where it is commercially available.
- Free samples provided to a medical practitioner and given to an injured employee are not reimbursable.
- A dispensing fee of up to $7.00 per prescription is allowed for medications dispensed by a pharmacy accessible to the general public. Over-the-counter medications not prescribed by a medical practitioner are not eligible for a dispensing fee.
- Medications administered or dispensed by a medical practitioner or a pharmacy not accessible to the general public are not eligible for a dispensing fee.

The Industrial Commission will hold a hearing on this proposal on July 1, 2019. Written comments will be accepted through July 8, 2019.

Mitchell has been actively engaged in this process since the presentation of the bill in early 2018. We support the efforts of the Commission and applaud them for their work in helping to reduce unnecessary costs in their workers' compensation system while reinforcing the value of local, retail pharmacies. We also appreciate their efforts to enable payers and employers to continue contracting with pharmacies in non-public settings and medical practitioners at rates that are reasonable and in line with reimbursement paid to our retail pharmacy partners. We will be attending the hearing and presenting our reasons for support and we will also be submitting written comments.

A copy of the hearing notice can be found here.

A copy of the staff proposal can be found here.

If you have questions about this alert, or any other regulatory or legislative proposal, please feel free to contact Brian Allen, Vice President of Government Affairs, at Brian.Allen@mitchell.com or at 801.903.5754.

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