Workers' Comp

Congress Makes Moves to Weed Out Marijuana Restrictions

September 30, 2019
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After considering several marijuana-related bills, the US House passed HR 1595, the SAFE Banking Act on Wednesday, September 25, 2019. The bill creates a safe harbor for financial institutions and ancillary financial services businesses to allow them to provide banking services to the cannabis industry without fear of prosecution under federal laws. The bill had bi-partisan support and now heads to the Senate for consideration. However, it is unlikely that there will be quick action in the upper chamber. The Senate Banking Committee Chair, Mike Crapo (R-ID) did not express any interest in fast tracking the bill, but noted that he may schedule the bill for a committee hearing before the end of the year.

Another bill related to marijuana is also currently running in the House. Representative Greg Steube (R-FL) and Representative Matt Gaetz (R-FL) are co-sponsoring HR4323, introduced on September 12, 2019. The bill, titled the Marijuana 1-3 Act of 2019, would reschedule marijuana from Schedule I to Schedule III in the Controlled Substances Act. This is the latest in a large number of bills that have been filed to change the status of marijuana in the Controlled Substances Act to resolve the conflicts between state and federal law regarding the legal use of the drug. There has been no indication on when the bill may be heard in committee.

Should the SAFE Banking Act or any of the marijuana rescheduling or de-scheduling bills pass, the current landscape on the use of medical marijuana in workers' compensation claims will change dramatically. Dispensaries would be able to bill payers directly and accept payments electronically or by check. It could open the door for PBMs or others to engage in creating cannabis networks and processing those claims as they would a prescription claim. Upon passage of any of these bills, claims administrators and medical providers will need to develop initial treatment guidelines to place some guardrails around the use of medical marijuana while clinical trials march on.

Based on the volume of activity regarding the status of marijuana in Congress, the workers' compensation system would be wise to start planning now. With the large number of states where medical marijuana is legal,

and a growing number about to join their ranks, the outcome at the federal level would appear to be inevitable.

Full text of the SAFE Banking Act can be found here.

Full text of the Marijuana 1-3 Act of 2019 can be found here.

For questions regarding this alert, please contact your client services manager or Brian Allen, VP of Government Affairs, at brian.allen@mitchell.com.

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