Workers' Comp

Vermont Department of Labor Proposes Rule Incorporating Opioid Prescribing Guidelines

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The Vermont Department of Labor has proposed a rule that would, by reference, incorporate the Department of Health opioid prescribing guidelines for use in the workers' compensation system in Vermont. The proposed rule would require prescribing providers to “comply in all respects” to the Rule Governing the Prescribing of Opioids for Pain, as amended on July 1, 2017, and as it may be amended in the future. Failure to follow the prescribing rules creates a rebuttable presumption that the medications do not constitute reasonable medical treatment, which could allow the employer or carrier to file a Form 27—Employer's Notice of Intention to Discontinue Payments.

The rule also adds a provision clarifying that a pre-authorization request for any health care is only valid for six months or until a change in the injured worker's medical condition warrants a re-evaluation of the request, whichever comes first.

Other changes in the proposed rule include:

- Clarification that the time frame for reporting a “first aid only” claim is five business days
- Amendment to some definitions related to vocational rehabilitation
- Adjustment to the average weekly wage calculation
- Clarification on how attorney fee adjustments are tied to the Consumer Price Index

The opioid prescribing rules amended by the Department of Health in July 1, 2017, recommend:

- No opioids for minor pain
- 24 MME for up to 5 days for moderate pain
- 32 MME for up to 5 days for severe pain
- 50 MME for up to 7 days for extreme pain

Hearing on the changes were held on the 21st, 23rd and 24th of August. The rule will become effective 30 days following the filing of the final rule. Comments on the proposed Department of Labor rule are due by August 31, 2018. A complete copy of the proposed rule can be found here.

A complete copy of the Department of Health Rule Governing the Prescribing of Opioids for Pain can be found here.

For questions regarding this alert or other legislative or regulatory actions, please contact Brian Allen, Vice President of Government Affairs at Brian.Allen@mitchell.com or at 801.903.5754.



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