Workers' Comp

Montana to Hold Hearing on Proposed Drug Formulary Rule

October 29, 2018
3 MIN READ
Author profile image

Brian Allen

Vice President, Government Affairs

The Montana Department of Labor and Industry (DLI) published draft drug formulary and treatment guideline rules and amendments in early October. A hearing on the proposed rule has been scheduled for November 9, 2018 at 10:00am in Helena, MT.

The rule, as proposed, adopts the Official Disability Guidelines (ODG) drug formulary and amends the rules to include the ODG drug formulary as a part of the Montana treatment guidelines. The new sections of the rule detail how the ODG drug formulary will be operationalized in Montana.

The following is a summary of the rule:

- Medical providers are required to prescribe in accordance with the treatment guidelines and the drug formulary
- Insurers shall pay for medications prescribed in accordance with the drug formulary
- Prior authorization is not required for injury appropriate medications listed as “Y” on the formulary, or for “N” drugs if prescribed within seven days of the injury for no more than a seven-day supply
- Prior authorization is required for drugs listed as “N” on the formulary, unless they meet the seven-day rule exception
- Prior authorization is also required for medication not listed on the formulary, experimental or investigational drugs, and compounded medications, even if all ingredients are “Y” drugs
- Insurers, or their designees, are required to respond to a request for prior authorization within three business days
- If an insurer fails to respond within the three day time frame, the medication is considered approved for that fill only
- An insurer may delegate the prior authorization process to a PBM or other entity with which it contracts

- The rule will be effective April 1, 2019, for all new claims April 1, 2020, for legacy claims
- Insurers and claims administrators are required to identify legacy claimants who are currently prescribed a non-formulary drug and must notify the injured workers and their treating physicians of the drug that is not included in the formulary
- The treating physician must respond indicating that the injured workers will transition to a “Y” drug or provide a medical basis for why the injured worker is unable to transition and provide a treatment plan for prior authorization
- The rule establishes an expedited case review by the DLI medical director in emergency situations when the insurance carrier or claims administrator declines to authorize a medication
- Expedited case review will be completed within three business days
- Non-emergency disputes over the formulary will follow the existing dispute resolution process
- The utilization review process remains the same and the drug formulary is considered to be a part of the Montana treatment guidelines

Montana joins a growing number of states implementing a drug formulary in their workers' compensation systems. We applaud Montana for their open and thoughtful process in developing this rule and appreciate their careful consideration of stakeholder input.

Comments on the rule will be accepted at the hearing and can be submitted in writing until 5:00pm MST on November 16, 2018.

A complete version of the rule can be found here.

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



©2022 Enlyte Group, LLC.

mitchell | genex | coventry