Workers' Comp

New York Workers' Compensation Board Releases Formulary Emergency Rule

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The New York Workers' Compensation Board released an emergency rule the week of November 4, 2019, making changes to some drugs associated with body parts and adding a fourth special consideration for Phase B drugs. The Board began talking about a possible update several weeks ago while soliciting stakeholder input. The Board released the rule as an emergency rule to allow enough time for stakeholders to program for the changes.

Nearly 40 drugs were changed in relation to their application to a specific body part injury. Most Phase B drugs that were not associated with a specific body part were given the new “Special Consideration 4”. This will allow the drugs to be prescribed without prior authorization in situations where the drug is not specifically tied to a body part condition, but would be appropriate for treating a condition that arises out of the injury where use of the particular drug would be in accordance with prudent medical treatment.

While the rule has been adopted as an emergency measure, formal publication of the rule in the New York Register will occur on November 20, 2019. The Board will accept comments on the rule until January 19, 2020. The emergency rule is effective for 90 days. The formal rule is expected to be adopted and effective within that timeframe.

Mitchell Pharmacy Solutions has reviewed the changes and we believe the modifications will help facilitate care to injured workers in a manner consistent with accepted medical treatment guidelines. We encourage stakeholders to review the changes and provide comments to the Board.

Information on the emergency rule can be found here.

The revised drugs list with body part indications and special consideration statuses can be found here. Changes are indicated with red highlights.

Reminder

The implementation of the drug formulary is less than 30 days away. Carriers and claims administrators should have established first- and second-level review contact information in the WCB medical portal. Injured workers currently being prescribed non-formulary medications should be identified and notices should be sent to both the impacted injured worker and their prescribing physician prior to the December 5, 2019, launch date of the drug formulary. Injured workers currently being prescribed non-formulary medications will have until June 5, 2020, to either make a transition to formulary medications or establish authorization, based on medical evidence, to maintain use of the non-formulary drugs.



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