Auto Casualty, Workers' Comp

Progressive Pathways: Exploring Workers' Comp Legislation in Texas, New York, Illinois, California and Tennessee

November 14, 2023
4 MIN READ
Author profile image

Lisa Robinson

Director, Regulatory Affairs

Enlyte brings together decades of unmatched experience and industry expertise to examine the impact of current legislation and trends.

Enlyte has seen a 12% increase in our Workers' Compensation Professional Services Medical Price Index (MPI) since 2017, according to Michele Hibbert, Sr. VP of compliance. This divergence is unprecedented and significantly above the Consumer Price Index (CPI), which measures inflation across services/goods. The data analyzed showed professional services were the primary drivers of these increases, which constitute the bulk of expenses. States like New York, California, Florida, and Texas are experiencing severity increases in workers' compensation claims. Michele shared that "Between Q1 2017 and Q2 2023, New York demonstrated an 11% increase in charge per unit, while Florida has seen a 7% increase, California a 9% increase, and Texas a 5% increase." While we can attribute some of these increases to the pandemic, it is essential to delve deeper into the individual state dynamics to fully understand these trends.

Texas

In 2005, Texas implemented significant workers' compensation reform, which included a drug formulary that eventually was implemented in 2009. According to Brian Allen, VP of Governmental Affairs, a recent report by the Texas Research and Evaluation Group highlighted the positive impact of this formulary. Pharmacy costs and the total number of prescriptions have decreased significantly, and there has been an 86% decrease in opioid prescriptions. Brian further stated, "We were involved in the development of the formulary back in the day so we were glad to see it has worked well" and emphasized the potential for targeted interventions to reduce costs and improve outcomes in workers' compensation systems.

New York

In New York, efforts are underway to avoid conflicts between the Department of Financial Services (DFS) and the workers' compensation board rules. According to Brian “we submitted comments pointing out those conflicts and we are asking the DFS to defer workers’ compensation rules in various provisions.” Since that time, Brian met with the DFS to discuss industry concerns to help avoid conflicts in the future. The New York DFS recognized our concerns and are withdrawing the proposed rule and restarting a new draft.

Illinois

The Medical Fee Schedule Advisory Board in Illinois is working on closing gaps in the fee schedule and establishing more reasonable reimbursement methodologies. Lisa Anne Bickford, Director of Government Relations at Enlyte, mentioned that problem is increasing due to the lag in fee schedule updates including the volume of new codes. In the upcoming December meeting, more discussion is expected around this area, which we are monitoring closely.

California

In California, discussions across multiple organizations are focused on the medical provider network, according to Lisa Anne Bickford, with the shared goal of finding solutions that work for all stakeholders and allowing the workers’ comp system to continue to serve the needs of injured employees.

Tennessee

The increase in potential fines and penalties is a key development in Tennessee. The state has recently revised its fee schedule, and one particular provision stands out - the increase in potential fines and penalties from $1,000 per occurrence to a $5,000 per occurrence maximum. This significant change stresses the importance of diligent claim administration, as Tennessee has now become a state with a high potential for fines and penalties. Stakeholders should keep this change on their radar to avoid any unwelcome surprises.

Another noteworthy development is the Certified Provider Program in Tennessee. This program, inspired by a similar initiative in Colorado, offers state-sponsored training to certain providers to enhance their expertise in workers' compensation. The idea is to improve the quality of medical care for injured employes by equipping providers with more specialized knowledge in the workers' compensation sector. After a brief legal challenge, the program is set to relaunch, promising to bring a new level of expertise to the workers' compensation landscape.

Florida

In Florida, several regulatory and legislative changes have been taking place over the past few years. One of the key issues under discussion is the physician dispensing rule and the inpatient hospital per diem amounts. The carriers are challenging the basis by which the National Council on Compensation Insurance's analysis arrived at the three-tier per diem amounts. The state has retained a mediator to help resolve a number of facility bills that had been priced at the benchmark methodology. This move is a positive step towards a compromise among the parties involved.

Forecasting the Future is Never Easy

The workers' compensation landscape is complex and demands active participation from all stakeholders. Whether it's the increase in potential fines and penalties in Tennessee, the relaunch of the Certified Provider Program, or ongoing discussions in Florida, each change brings new challenges and opportunities.

At Enlyte, our team of experts are continually monitoring emerging trends, keeping abreast with legislation and case law, and lobbying to help navigate these complexities today and into tomorrow for the benefit of our customers and the industry. Staying informed and engaging with a knowledgeable compliance partner allows our clients to navigate these changes effectively, ensuring the system continues to serve the needs of their injured employees, whatever may come our way!



©2022 Enlyte Group, LLC.

mitchell | genex | coventry