Workers' Comp

Thoughts on the Publix Decision and What Actually Changed (Spoiler, Less Than You Think)

August 12, 2026
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Few Florida workers' compensation decisions have sparked more conversation than Publix Super Markets, Inc. v. Department of Financial Services, or generated more questions about their practical impact. Although the case involved physician dispensing, the legal issues centered on whether regulators could call dispensing physicians pharmacies or pharmacists through administrative rulemaking. The court said no. Full stop.

What the Court Actually Decided

Florida's workers' comp statute gives injured employees a "free, full, and absolute choice" of pharmacy or pharmacist. The Department of Financial Services wrote rules extending those provisions to dispensing physicians by treating them as pharmacies. Publix challenged those rules. The court found the agency had overstepped its rulemaking authority and set aside the physician-dispensing provisions in Rules 69L-7.730 and 69L-7.740.

That was it, the court did not:

- Prohibit physician dispensing
- Create new prior authorization requirements
- Require carriers to automatically deny physician-dispensed medications
- Mandate new billing logic, denial codes, or system edits

The court even noted explicitly that it wasn't deciding when or whether physician-dispensed medications must be authorized.

The Proposed Rule Changes Aren't a Plot Twist

When the Florida Division of Workers' Compensation recently announced proposed rule changes removing physician-dispensing billing provisions from the affected rules, some read it as a new regulatory development.

It isn't. It's housekeeping.

The agency is simply removing language the court already invalidated. Rules get aligned with rulings, and that's how the process is supposed to work.

The Bottom Line

This kind of overcorrection isn't unique to Publix. In workers' compensation, significant decisions have a way of taking on a life of their own and picking up extra weight with each retelling. Before long, a ruling about regulatory authority becomes the basis for new denial logic, authorization hurdles, or system edits that the court never actually required. It's an easy trap to fall into and can be an expensive one. Operational changes built on assumptions rather than what the court actually decided cost time and money without any legal foundation to stand on.

Sometimes the most important thing a court decision does is clarify what didn't change and knowing that can be just as valuable as knowing what did.

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