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NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Model Act on Workers' Compensation Repackaged Pharmaceutical Reimbursement Rates

Model expanded and adopted by the NCOIL Executive Committee on July 14, 2013, and by the Workers' Compensation Insurance Committee on July 12, 2013.
Originally adopted by the committees on March 10, 2013, and March 9, 2013, respectively. Co-sponsored for discussion by Rep. Bill Botzow (VT) and Rep. Charles Curtiss (TN)
Re-adopted by the NCOIL Workers' Compensation Insurance Committee on July 13, 2018 and the NCOIL Executive Committee on July 15, 2018.
Re-adopted by the NCOIL Workers' Compensation Insurance Committee on July 21, 2023 and the NCOIL Executive Committee on July 22, 2023.

Drafting Note: This model language is intended for inclusion in state insurance code or regulation related to workers' compensation medical fee schedules.

Section 1. Purpose

The purpose of this Act is to establish clear guidelines for reimbursement of repackaged pharmaceutical products in order to help reduce workers' compensation insurance costs.

Section 2. Short Title

This Act shall be known as the *"Model Act on Workers' Compensation Repackaged Pharmaceutical Reimbursement Rates."*

Section 3. Definitions

Drafting Note: Definitions for language in this Act would track definitions in [insert relevant workers' compensation statute].

Section 4. Reimbursement for Repackaged Pharmaceutical Products*

A. All pharmaceutical bills submitted for repackaged products must include the National Drug Code (NDC) Number of the original manufacturer registered with the U.S. Food & Drug Administration (FDA) or its authorized distributor's stock package used in the repackaging process.

B. The reimbursement allowed shall be based on the current published manufacturer's Average Wholesale Price (AWP) of the product, calculated on a per unit basis, as of the date of dispensing.

Drafting Note: A state where a workers' compensation pharmacy fee schedule is already in place should use the following subsection B, in place of subsection B above:

B. The maximum reimbursement allowed shall be based on the current pharmacy fee schedule reimbursement methodology, utilizing the original manufacturer's NDC and corresponding Average Wholesale Price (AWP) of the drug product, calculated on a per unit basis, as of the date of dispensing.

C. A repackaged NDC Number shall not be used and shall not be considered the original manufacturer's NDC Number. If the original manufacturer's NDC Number is not provided on the bill, then the reimbursement shall be based on the AWP of the lowest priced therapeutically equivalent drug, calculated on a per unit basis.

D. The maximum period during which a provider may dispense a repackaged drug or over-the-counter (OTC) drug is seven days from the date of the employee's initial treatment.

E. The dispense fees otherwise provided in [insert relevant workers' compensation statute] shall be payable when applicable.

Drafting Note: Calculation of the AWP should be based on one or both of the universally accepted reporting databases, Medispan or Redbook, as selected by the payer.

Section 5. Enforcement

The [insert applicable state agency] shall have enforcement authority as provided under [insert workers' compensation statute].

Section 6. Effective Date

This Act shall take effect [insert months] after enactment.

* Based on provisions in TN Dept. of Labor & Workforce Development, Division of Workers' Compensation Rule 0800-02-18-.12