

HOUSE BILL 1389

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3lr3082
CF SB 914

By: **Delegate Jameson**

Introduced and read first time: February 14, 2013

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Reimbursement for Drugs – Fee Schedule and**
3 **Requirements**

4 FOR the purpose of requiring the Workers' Compensation Commission to adopt in
5 regulation a pharmaceutical fee schedule; providing for the setting of
6 reimbursement rates for certain drugs; requiring the Commission to select and
7 designate in regulation a certain publication to be used for certain purposes;
8 requiring that the Commission use the most recent issue of a certain publication
9 for certain purposes; requiring that a certain bill submitted to an employer or
10 its insurer for reimbursement of a certain drug contain certain information;
11 requiring an employer or its insurer to reimburse a claimant for a certain drug
12 under certain circumstances; and generally relating to the reimbursement for
13 drugs under workers' compensation.

14 BY repealing and reenacting, with amendments,
15 Article – Labor and Employment
16 Section 9–663
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2012 Supplement)

19 BY adding to
20 Article – Labor and Employment
21 Section 9–665
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2012 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Labor and Employment**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9-663.

2 (a) (1) The Commission shall adopt regulations setting standards for the
3 assessment of fines under § 9-664 of this Part IX of this subtitle.

4 (2) The Commission may adopt regulations about:

5 (i) the provision of medicine and medical, nursing, and hospital
6 services to a covered employee;

7 (ii) payment for the medicine and services; and

8 (iii) the exercise by the Chairman of the Commission of the
9 powers granted under § 9-662 of this subtitle.

10 (b) (1) The Commission may regulate fees and other charges for medical
11 services or treatment under this subtitle.

12 (2) Each fee or other charge for medical service or treatment under
13 this subtitle is limited to the amount that prevails in the same community for similar
14 treatment of an injured individual with a standard of living that is comparable to that
15 of the covered employee.

16 (3) At least once every 2 years, the Commission shall:

17 (i) review its guide of medical and surgical fees for
18 completeness and reasonableness; and

19 (ii) make appropriate revisions to the guide of medical and
20 surgical fees.

21 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SECTION, THE**
22 **COMMISSION SHALL ADOPT IN REGULATION A PHARMACEUTICAL FEE**
23 **SCHEDULE.**

24 **(2) (I) THE PHARMACEUTICAL FEE SCHEDULE ADOPTED**
25 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

26 **1. FOR BRAND NAME PRESCRIPTION DRUGS, SET**
27 **THE REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE AVERAGE**
28 **WHOLESALE PRICE ESTABLISHED BY THE ORIGINAL MANUFACTURER PLUS A**
29 **DISPENSING FEE;**

30 **2. FOR GENERIC EQUIVALENT PRESCRIPTION**
31 **DRUGS, SET THE REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE**

1 AVERAGE OF ALL WHOLESALE PRICES FOR PRODUCTS THAT HAVE BEEN
2 APPROVED AS THERAPEUTICALLY EQUIVALENT PLUS A DISPENSING FEE;

3 3. FOR REPACKAGED DRUGS, SET THE
4 REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE AVERAGE
5 WHOLESALE PRICE ESTABLISHED BY THE ORIGINAL MANUFACTURER THAT IS
6 BASED ON THE NATIONAL DRUG CODE OF THE PRIMARY UNDERLYING ACTIVE
7 DRUG USED IN THE REPACKAGING PLUS A DISPENSING FEE; AND

8 4. FOR COMPOUNDED DRUGS, SET THE
9 REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE AVERAGE
10 WHOLESALE PRICE OF THE INGREDIENTS USED TO MAKE THE COMPOUNDED
11 DRUG PLUS A DISPENSING FEE.

12 (ii) 1. THE COMMISSION SHALL SELECT AND DESIGNATE
13 IN REGULATION THE NATIONALLY RECOGNIZED PHARMACEUTICAL
14 PUBLICATION THAT THE COMMISSION WILL USE TO DETERMINE THE AVERAGE
15 WHOLESALE PRICE FOR BRAND-NAME AND GENERIC-EQUIVALENT DRUGS.

16 2. IN DETERMINING THE AVERAGE WHOLESALE
17 PRICE FOR BRAND-NAME AND GENERIC-EQUIVALENT DRUGS, THE COMMISSION
18 SHALL USE THE PRICING IN THE MOST RECENT ISSUE OF THE PUBLICATION
19 DESIGNATED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

20 9-665.

21 (A) A PHARMACEUTICAL BILL SUBMITTED TO AN EMPLOYER OR ITS
22 INSURER FOR REIMBURSEMENT OF A REPACKAGED OR COMPOUNDED DRUG
23 SHALL INCLUDE THE ORIGINAL MANUFACTURER OR DISTRIBUTOR STOCK
24 PACKAGE NATIONAL DRUG CODE FOR EACH DRUG USED IN THE REPACKAGED
25 OR COMPOUNDED DRUG.

26 (B) IF AN EMPLOYER OR ITS INSURER PREAUTHORIZED THE USE OF A
27 REPACKAGED OR COMPOUNDED DRUG THAT CONTAINED A DRUG THAT IS NOT
28 APPROVED FOR USE BY THE FEDERAL FOOD AND DRUG ADMINISTRATION OR
29 THAT DOES NOT HAVE AN ASSIGNED NATIONAL DRUG CODE, THE EMPLOYER OR
30 ITS INSURER SHALL REIMBURSE THE CLAIMANT FOR THE DRUG.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2013.