

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 174
Economic Matters

(Delegate Jameson)

**Workers' Compensation - Payment for Physician-Dispensed Prescriptions -
Limitations**

This bill specifies that an employer, or its insurer, may not be required to pay for a prescription that is dispensed by a physician to a covered employee who has suffered an accidental personal injury, compensable hernia, or occupational disease unless the prescription was (1) dispensed within 72 hours after either the disease was discovered or the injury or hernia occurred and (2) limited to no more than a 30-day supply of the medication.

Fiscal Summary

State Effect: Potential decrease in State expenditures (all funds) due to any savings realized for prescriptions covered under workers' compensation insurance.

Injured Workers' Insurance Fund (IWIF) Effect: Potential decrease in IWIF expenditures due to any savings realized for prescriptions covered under workers' compensation insurance.

Local Effect: Potential decrease in expenditures for self-insured counties and municipalities due to any savings realized for prescriptions covered under workers' compensation insurance.

Small Business Effect: Potential meaningful. Potential decrease in costs to small businesses due to any savings realized for prescriptions covered under workers' compensation insurance.

Analysis

Current Law/Background: A licensed physician may personally prepare and dispense prescription drugs or devices if he or she holds a written dispensing permit from the State Board of Physicians and meets other specified criteria. A physician who dispenses prescription drugs or devices must comply with prescription drug labeling requirements, record the dispensing on a patient's chart, allow the Division of Drug Control to enter and inspect the practitioner's office at all reasonable hours, provide the patient with a written prescription, and maintain prescription files in a specified manner. According to the State Board of Physicians 1,442 physicians hold dispensing permits in Maryland.

A physician who holds a dispensing permit may dispense prescription drugs or devices to a claimant in a workers' compensation case for any period of time and for an unlimited amount of refills.

Physician dispensing of repackaged pharmaceuticals may increase costs for the workers' compensation system in states where physicians are not bound by state fee schedules and pharmacy cost controls. According to a study by the Workers' Compensation Research Institute released in July 2012, physicians directly dispense 35% of all medications prescribed to injured workers in Maryland, representing 47% of total spending on pharmaceuticals for workers' compensation claims. The report determined that, in Maryland, from 2007 to 2011, prices paid for physician-dispensed prescriptions increased meaningfully while prices paid to pharmacies decreased or changed only slightly. (For example, the average price per pill paid to physicians for Vicodin increased 78%, while the price paid per pill to pharmacies for the same drug fell 8%.)

The Workers' Compensation Commission has previously proposed two sets of regulations that would have established a pharmaceutical fee schedule. (Several states have lowered overall workers' compensation costs by implementing similar measures.) However, neither set of regulations was approved.

State/IWIF/Local/Small Business Effect: Expenditures may decrease for all employers due to any savings realized for prescriptions covered under workers' compensation insurance. The State, IWIF, local governments, and small businesses are affected in a similar manner.

To the extent that physician-dispensed drugs are more expensive than pharmacy-dispensed drugs and the bill reduces dispensing by physicians, the bill results in cost savings for the workers' compensation market generally.

Small businesses, in particular, may benefit from the bill in that, currently, their ability to negotiate prescription drug costs is more than that of larger employers. Thus, they may also benefit from lower premiums for workers' compensation insurance.

Additional Information

Prior Introductions: None.

Cross File: SB 247 (Senator Klausmeier) - Finance.

Information Source(s): Workers' Compensation Research Institute, Department of Budget and Management, Department of Health and Mental Hygiene, Maryland Insurance Administration, Injured Workers' Insurance Fund, National Council on Compensation Insurance, Subsequent Injury Fund, Uninsured Employers' Fund, Workers' Compensation Commission, Department of Legislative Services

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