

March 26, 2025

The Honorable C.T. Wilson  
Chair, House Economic Matters Committee  
230 Taylor House Office Building  
Annapolis, Maryland 21401

### **Senate Bill 306 – Favorable with Amendment**

Dear Chairman Wilson:

EZ Scripts Pharmacy is a national home delivery pharmacy specializing in serving injured workers. We respectfully submit this testimony as **favorable with amendment to Senate Bill 306**, which proposes a pharmaceutical fee guide for prescription drugs and pharmaceutical services under Maryland's workers' compensation law:

#### *Concerns with Senate Bill 306*

While **EZ Scripts Pharmacy does not oppose the establishment of a reimbursement fee guide** for workers' compensation medications, the current construction of Senate Bill 306 does not consider all factors for servicing injured workers and has the potential to limit access to medications for injured workers, create cost shifting to other insurance and government programs, increase pharmacy benefit costs to insurance carriers and employers, and require more litigation within the workers' compensation system.

#### *Disruptions to Standard Reimbursement Practices*

Currently Maryland is absent of a pharmacy fee schedule for the reimbursement of prescription drugs. Under the current regulations the Maryland Workers' Compensation Commission has the ability to regulate, review, and create fee guides for workers' compensation. The Maryland Fee Guide Committee in 2023 worked to create a pharmacy reimbursement fee guide. The fee guide that was proposed was National Average Drug Acquisition Cost (NADAC). During an open hearing in October 2023 there was opposition from Pharmacy Benefit Managers (Healthsystems and Mitchell), Non-network pharmacies, dispensing doctors, and patients.

Currently 35 states utilize a reimbursement fee guide based on Average Wholesale Price (AWP). AWP's are published by national recognized sources Medi-Span and Red Book. These publications incorporate all National Drug Codes (NDC) utilized in the prescribing of medication including workers' compensation. AWP is the established mechanism utilized by pharmacy benefit managers (PBM) to process medications in workers' compensation systems nationwide including Maryland.

Senate Bill 306 proposes utilizing acquisition cost index or indexes such as NADAC or Wholesale Acquisition Cost (WAC) for the reimbursement of prescription drugs. These indexes do not incorporate all drug NDCs utilized in workers' compensation thus creating the need for a tiered and complicated fee guide. Additionally, NADAC is a voluntary survey asking pharmacies to provide acquisition costs for the drugs they purchase. None of the major chain pharmacies respond to this survey, in fact less than 25% of pharmacies surveyed respond. Due to this NADAC is not a complete and true metric and should not be utilized to determine reimbursement for medicines in workers' Compensation.

## *Risks to Injured Workers, Employers, and the Workers' Compensation System*

Radical changes to reimbursement structures can create significant challenges. One major concern is reduced access to medications, as the complexity of workers' compensation may lead to pharmacies to opt out of servicing workers' compensation patients. Additionally, cost shifting can occur, potentially increasing out-of-pocket expenses for injured workers and transferring costs to other insurance programs including government programs like Medicare and Medicaid.

**An acquisition cost fee guide would make Maryland an outlier as it pertains to other states' reimbursement schedules, this would result in higher administrative costs as PBMs would have to create a unique carve out to process workers' compensation related medications.** These costs would be passed through to the insurance carriers and ultimately to Maryland employers. Lastly, there could be significant increases in litigation due to the complex issues surrounding providing injured workers with medications. Delays in authorization, validity of claims, updating coverage will force claimant attorneys to file petitions in front of the Maryland Workers' Compensation Commission, as opposed to an injured worker receiving their medications from a pharmacy like EZ Scripts while the issues are worked out outside of litigation.

### *Proposed Amendments*

**EZ Scripts offers amendments to Senate Bill 306 that will allow the Maryland Workers Compensation Commission to do its authorized duty in working with relevant stakeholders, including but not limited to pharmacies servicing injured workers to examine all options for reimbursement methodologies including current schedules available in other states, and conduct a comprehensive study of Maryland's workers' compensation pharmacy spend including in-network, out-of-network, and doctor dispensed medications. Additionally, any carve out for other system participants to contract for indexes and rates separate from what is set forth by the commission should be eliminated from Senate Bill 306.**

Thank you for your time and consideration. We urge the committee to adopt our proposed amendments to SB 306.

Darren Thomas  
Chief Operating Officer

# Proposed Amendments to SB 306:

## A SENATE BILL 306

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By: **Senator Beidle**

Introduced and read first time: January 13, 2025

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2025

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### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 Workers' Compensation – Prescription Drug and Pharmaceutical Services –

3 **Reimbursements**

4 FOR the purpose of requiring the State Workers' Compensation Commission to regulate  
5 fees and other charges for the reimbursement of prescription drugs and  
6 pharmaceutical services under certain circumstances; limiting reimbursements to a  
7 certain cost index or indexes; requiring the Maryland Prescription Drug Affordability  
8 Board to conduct a certain study; and generally relating to reimbursement for  
9 prescription drugs and pharmaceutical services under workers' compensation law.

10 BY repealing and reenacting, with amendments,  
11 Article – Labor and Employment  
12 Section 9–663  
13 Annotated Code of Maryland  
14 (2016 Replacement Volume and 2024 Supplement)

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

17 **Article – Labor and Employment**

18 9–663.

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

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EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law. Underlining  
indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

2 **SENATE BILL 306**

1 (2) The Commission may adopt regulations about:

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

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

5 (iii) the exercise by the Chairman of the Commission of the powers  
6 granted under § 9–662 of this subtitle.

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

9 (2) (I) ~~THE~~ NOT LATER THAN SEPTEMBER 1, 2026,

THE

10 COMMISSION SHALL REGULATE FEES AND OTHER CHARGES FOR THE  
11 REIMBURSEMENT OF PRESCRIPTION DRUGS AND PHARMACEUTICAL SERVICES  
12 UNDER THIS SUBTITLE PROVIDED BY A PERSON WHO HOLDS A PHARMACY PERMIT  
13 UNDER TITLE 12, SUBTITLE 4 OF THE HEALTH OCCUPATIONS ARTICLE.

14 ~~(ii) REIMBURSEMENT UNDER SUBPARAGRAPH (i) OF THIS~~  
15 ~~PARAGRAPH SHALL BE LIMITED TO AN INDEX OR INDEXES BASED ON ACQUISITION~~  
16 ~~COST, CALCULATED ON A PER UNIT BASIS, AS OF THE DATE OF DISPENSING AND MAY~~  
17 ~~INCLUDE:~~ \_

(I) REIMBURSEMENT FOR PRESCRIPTION DRUGS AND PHARMACEUTICAL  
SERVICES UNDER THIS SECTION SHALL BE BASED ON A FEE SCHEDULE  
DETERMINED BY THE WORKERS COMPENSATION COMMISSION. THE



1                    ~~[(3)]~~ (4)            At least once every 2 years, the Commission shall:

2                    (i)        review its guide of medical and surgical fees for  
3        reasonableness; and

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

4                    (iii) (iii)    make appropriate revisions to the guide of medical and  
5        surgical

fees.

6        ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

7        ~~(a)        The Maryland Prescription Drug Affordability Board:~~

8        ~~(1)        shall conduct a study on prescription drug affordability  
9        challenges~~

~~related to workers' compensation claims that includes:~~

10        ~~(i)        an overview of prescription drug prescribing and billing  
11        practices~~

~~and trends that are specialized to the workers' compensation market;~~

12        ~~(ii)        research into specific prescribing, billing, and  
13        dispensing~~

~~practices, including:~~

14        ~~1.        prescribing high cost formulations and  
15        compounded~~

~~formulations of commonly available drugs;~~

16        ~~2.        billing and dispensing from entities that do not  
17        bill or~~

~~provide services in the health insurance market; and~~

18        ~~3.        billing practices using billing codes without  
19        standardized~~

~~pricing metrics; and~~

20        ~~(iii)        making recommendations, if applicable, for policies to  
21        address~~

~~identified affordability challenges; and~~

~~22 (2) may require, subject to applicable federal and State laws,~~  
~~23 pay, prescribe, bill, and dispense prescription drugs under workers' compensation~~  
~~24 to report information to the Board as necessary to complete the study.~~  
~~claims~~

~~25 (b) On or before March 1, 2026, the Prescription Drug Affordability Board~~  
~~26 report its findings and any recommendations to the Senate Finance Committee~~  
~~27 House Economic Matters Committee, in accordance with § 2-1257 of the State~~  
~~28 Article.~~  
~~shall~~

29 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 ~~October~~ July 1, 2025.