



March 26, 2025

The Honorable C.T. Wilson, Chairman
House Economic Matters Committee
231 Taylor House Office Building
Annapolis, MD 21401

RE: **SB 306 – Workers’ Compensation – Prescription Drugs & Pharmaceutical Services – Reimbursements - FAVORABLE ONLY WITH AMENDMENTS**

Dear Chairman Wilson, Vice Chair Crosby and Members of the Committee:

On behalf of RescueMeds, an independent pharmacy that fills the crucial gap in pharmacy access for injured workers while their cases are being contested at the Workers’ Compensation Committee, we ask for a Favorable Report - ONLY if the attached amendments are adopted.

Without these fair, compromise amendments - Maryland will be the first state in the nation to statutorily adopt the ‘acquisition cost’ model for pharmacy reimbursement for injured first responders and other workers. Thirty-five other states have rejected “Acquisition Cost” (“National Average Drug Acquisition Cost”) reimbursement for Workers’ Compensation and use an “Average Wholesale Price (AWP) methodology. Maryland currently uses a ‘usual and customary’ reimbursement model.

WE DO NOT WANT TO BE FIRST STATE IN THE NATION TO ADOPT "ACQUISITION COST" FOR WORKERS' COMPENSATION BY STATUTE. That is exactly what SB 306 does. Thirty-Five+ other states use an ‘Average Wholesale Price’ (AWP) methodology. They have done the "heavy lifting", vetted with stakeholders and recognize that such a low reimbursement hurts injured workers, eliminates competition, and prevents access to care.

These independent pharmacies which serve injured workers, provide prescriptions while cases are in dispute (47.5% of all cases are contested and 100% of occupational disease for Public Safety Police and other first responders are contested at the Workers’ Compensation Committee).

Access to these prescriptions by injured worker's for prescriptions dispensed by these independent pharmacies is critical while these cases are being contested. Yet, just over 5% of the cases that are contested are ultimately denied compensation! Delay and deny.

We are providing you with suggested amendments as a result of conversations by the independent pharmacies with Workers' Compensation Subcommittee Chair, Delegate Andrea Harrison. Delegate Harrison suggested that we also add a specific list of stakeholders to review all recognized pharmacy reimbursement pricing benchmarks by the Workers' Compensation Committee.

We included all benchmarks and stakeholders - highlighted in yellow. The substantive language on page 2 on the bill, highlighted, simply asks the Commission to do its job and look at all the pharmacy reimbursement models available with the enumerated stakeholders and after a fair and reasonable overview of the pros and cons of each option, report back to the legislature with its decision.

I would just like to point out that the perception is the Worker's Compensation Commission has been intimidated by a small minority who are seeking to impose a NADAC ("Acquisition Cost") methodology. All the Workers' Compensation Medical Fee Guide notes from September, October, November 2023 (attached and highlighted) explicitly show either a desire to adopt an Average Wholesale Price (AWP) Model or recommend that the Commission review all the data available for a state-by-state comparison of the pharmacy reimbursement models.

See:

September 21, 2023 - "Commissioner Kittleman suggested having experts in the pharmaceutical industry share their knowledge with the Committee members and as well as representatives from states that have workers compensation prescription fee guides share their process and any issues they encountered while formulating the prescription fee guide."

https://www.wcc.state.md.us/PDF/MFG/MFG_Minutes/Minutes09_21_23.pdf

October 26, 2023 - "The consensus of the comments is that most presenters favored AWP vs. NADAC. Comments of the difficulty faced by injured workers obtaining their prescriptions were shared by Yvette Cade and retired Baltimore City police officer Daryl Buhrman."

https://www.wcc.state.md.us/PDF/MFG/MFG_Minutes/Minutes10_26_23.pdf

November 27, 2023 - "A suggestion was made to obtain data from surrounding states that have prescription fee guides to compare prescriptions costs and determine what "guardrails" might be needed if a prescription fee guide is adopted...Mr. Garza suggested using AWP because anything else would be too low of a reimbursement."

https://www.wcc.state.md.us/PDF/MFG/MFG_Minutes/11_27_2023MFGMinutes.docx

Chairman Kittleman said the next meeting will be in January 2024, but no meetings were held in 2024, because Chesapeake didn't get its way. So, they brought their minority position to the legislature to ask you to rubber stamp the minority position of a few to the detriment of injured workers and first responders who will be denied access to care.

Why would the legislature mandate "Acquisition Cost" when in the MFG notes on November 27, 2023, they specifically state, NADAC (Acquisition Cost) does not even cover 30% of drugs dispensed, doesn't include medical specialists, self-dispensing doctors or mail order! Why would you legislate a policy that doesn't even cover 30% of the drugs? Don't make public policy in a vacuum at the last minute with inadequate and incomplete information.

The proponents of this bill, Chesapeake Insurance, who possesses the largest market share of Worker's Comp. insurance, will try and argue that since Medicaid uses an 'Acquisition Cost' model of pharmacy reimbursement, this is also logical to use 'Acquisition Cost' for Workers' Compensation Claims. This ignores the reality of an incredible amount of overhead that goes into sending in medical records to the doctors, sending the records to the pharmacies and acquiring the medications while the injured worker's case is being contested. Again, thirty-five plus states have rejected this argument.

The PowerPoint of the SB 306 proponents is incomplete, inaccurate and skewed.

Where is the "usual and customary" Maryland standard to compare to the other figures in columns presented in the PowerPoint so you can ascertain what was paid under the current Maryland standard?

Where is the column on the PowerPoint of the litigation costs indicating how much was spent arguing over maybe a few hundred dollars in prescription costs that are totally eaten up by hourly defense attorney fee costs – and who really benefits from the litigation contesting the injured workers claims?

Not all the drugs represented on the PowerPoint are broken out as to whether they are 'brand' drugs (more expensive) or whether they are 'generic' drugs, (less expensive). This specific information is essential for accurate analysis to test any credibility.

Where is the column that show how much the PBMs were paid for each or aggregate prescriptions?

You must allow all stakeholders at the table for informed input to finally make a decision that all agree with - Maryland should have a Prescription Fee Guide which considers the impact on injured workers, pharmacies, and insurance carriers alike. But SB 306 before you, is not the consensus answer.

PBM's should not be exempted under this bill. In fact, by exempting PBM's under this bill, pharmacy prices will increase as the PBM's will be allowed to further inflate the rebates and profits they collect from manufacturers. The lower the acquisition cost of a drug, the greater the opportunity for PBM's to exploit the reimbursement structure – pocketing a larger portion of the "spread" between what they pay and what they are reimbursed. This creates a corrosive incentive that drives up costs for patients and distorts the pharmacy reimbursement system.

Additionally, the Prescription Drug Affordability Board does not have the resources and staff to do what is being requested in SB 306.

For these reasons, and others, RescueMeds respectfully asks for a Favorable Report With Amendments, ONLY if the amendments that include all reimbursement pricing benchmarks and an opportunity for full and fair input before the Workers' Compensation Commission by enumerated stakeholders is adopted.

Respectfully submitted,
Gil Genn
On behalf of RescueMeds