

AB 1124: Drug Formulary in the California Workers' Compensation System Interim Status Report

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AB 1124 Interim Status Report

Assembly Bill 1124 (Statutes 2015, Chapter 525) requires the adoption of an evidence-based workers' compensation drug formulary by July 1, 2017. In this status report, the Division of Workers' Compensation (DWC), within the Department of Industrial Relations (DIR), provides an overview of the steps taken to date in the development of a formulary.

Formulary Project Goals

The goals of the project are the following:

- To implement AB 1124's requirement for the DWC to establish an evidence-based formulary by July 1, 2017, as part of the medical treatment utilization schedule (MTUS).
- To facilitate the provision of appropriate medications to injured workers by establishing a list of preferred medications, with the goal of encouraging usage of the most appropriate medications, while at the same time minimizing disputes and associated administrative costs.
- To design an evidence-based formulary to maximize high-quality health care for injured workers and improve work-related outcomes through policies consistent with the MTUS.

The DWC has taken various steps to meet the goals outlined above. In consultation with RAND, the DWC has been gathering information from workers' compensation system participants as well as other jurisdictions and payment systems to identify formulary issues and best practices. The DWC has also contracted with RAND to conduct an evaluation of the formulary design and implementation options. Finally, the DWC has conducted public hearings, posted draft regulations on the DWC forum, and started the formal rulemaking process on the implementation of the formulary.

Identification and Evaluation of Formulary Design and Implementation Options: RAND Consultation

The DWC contracted with the RAND Corporation, an independent research firm, to conduct research and provide consultation on the design, implementation, and economic impact of the formulary and related policies. RAND issued an August 2016 [report](#) which analyzed the various formularies used by other states and organizations, and explained the benefits and disadvantages of each approach and the potential applicability to California workers' compensation. The RAND report indicated that the formulary should be consistent with the MTUS guidelines. The report noted that the methods used to develop the American College of Occupational and Environmental Medicine (ACOEM) guidelines are rigorous, transparent, and evidence-based. The DWC decided to proceed with using the

ACOEM guidelines for the formulary to maintain consistency with the DWC's MTUS, which is primarily based on ACOEM guidelines.

Public Input to the Formulary Project

The DWC has been gathering input from a broad spectrum of the public, including employers, insurers, labor representatives, physicians, pharmacists, pharmacy benefit management companies, and attorneys representing injured workers.

Public meetings were held in 2015 and 2016 giving stakeholders an opportunity to provide input on the development of the formulary and the implementation of AB 1124.

In addition, DIR Director Christine Baker, along with DWC Acting Administrative Director George Parisotto and DWC Executive Medical Director Raymond Meister, M.D., testified before the Senate Labor and Industrial Relations Committee and the Assembly Insurance Committee on March 2, 2016. This joint hearing on the creation of a workers' compensation formulary allowed the DIR to present the legislature and the public with a status report and overview of issues involved in developing the formulary.

The DWC posted draft formulary regulations on the [DWC Forum](#) webpage on August 26, 2016, together with the RAND formulary report and proposed ACOEM Guidelines for public review and discussion. These postings permitted all interested stakeholders to provide further input on the formulary development.

Subsequently, the DWC has incorporated many of the comments received in its public hearings and from the DWC Forum into its formal regulatory proposal.

Current Status and Next Steps

The formal rulemaking process began on March 17, 2017, with the publication of the Notice of Proposed Rulemaking in the California Regulatory Notice Register. In addition, the DWC posted the [rulemaking documents](#) on the DWC website and issued a [DWC Newsline](#) to announce the opening of the 45-day public comment period. The rulemaking documents posted for public comment included the following documents:

- Notice of Proposed Rulemaking
- Initial Statement of Reasons
- Proposed Regulations
 - Text of Regulations
 - Proposed MTUS Drug List
 - Application for Appointment to the Pharmacy and Therapeutics Committee (Form DWC MTUS PT-APP)
 - Pharmacy and Therapeutics Committee Conflict of Interest Disclosure (Form DWC MTUS PT-COI)

During the 45-day public comment period, from March 17 through May 1, 2017, the DWC will accept written comments on the text of the regulations, including the MTUS

Drug List and the forms relating to the Pharmacy and Therapeutics Committee. The MTUS Drug List includes preferred drugs that may be dispensed without the need for prospective review, when used in accordance with the treatment guidelines. Non-preferred drugs and unlisted drugs are also available when shown to be medically necessary for the treatment of the injured worker. The proposed MTUS Drug List is based on and consistent with medical treatment guidelines created by ACOEM and published by the Reed Group.

In addition to the public hearings and rulemaking, the DWC has provided updates on formulary development and received public comments at Commission on Health and Safety and Workers' Compensation's (CHSWC) meetings. The latest [update](#) was provided at the CHSWC meeting on March 24, 2017.

The DWC will hold a public hearing in Oakland on May 1, 2017, to accept oral testimony and written comments on the proposed formulary regulations. Details on this hearing can be found on the [DWC website](#).

After the public comment period closes on May 1, 2017, the DWC will analyze the oral and written comments received. If the DWC determines that changes to the regulatory proposal are warranted, the DWC will issue a revised proposal for a 15-day public comment period. Upon completion of the rulemaking action, the regulations will be submitted to the Office of Administrative Law for approval and filing with the Secretary of State.