

Memorandum

DATE: December 16, 2005

TO: Interested Parties

FROM: Carrie Nevans
Acting Administrative Director

**SUBJECT: Invitation to Advisory Committee Meeting Regarding
OMFS Pharmacy Fee Schedule**

The Division of Workers' Compensation invites interested members of the workers' compensation community to attend an advisory committee meeting regarding a draft regulation to cover pharmaceuticals that are not within the Medi-Cal database. Under Labor Code section 5307.1 pharmaceuticals that are not covered within a facility fee payment are to be reimbursed at no more than the rate that would be payable by Medi-Cal. For pharmaceuticals that are not within the Medi-Cal payment system, the Administrative Director is directed to adopt a fee schedule that sets maximum fees at no more than 100% of the fees paid by Medi-Cal for pharmacy services or drugs that require comparable resources. The draft regulation is intended to provide a methodology for determining maximum prices for all pharmaceuticals dispensed to a workers' compensation patient. I would appreciate comments from the community on this initial draft.

Place: Elihu Harris State Building, Room 11
Oakland, California

Date: January 10, 2006

Time: 10:00 a.m.

If you are unable to attend and would like to submit written comments please email them to dwcrules@dir.ca.gov or mail comments to Maureen Gray, Rulemaking Coordinator, Division of Workers' Compensation, P.O. Box 420603, San Francisco, CA 94142.

Attachment

Title 8, California Code of Regulations section 9789.40

(a) The maximum reasonable fee for pharmacy services rendered after January 1, 2004 is 100% of the fee prescribed in the relevant Medi-Cal payment system. Medi-Cal rates will be made available on the Division of Workers' Compensation's Internet Website (http://www.dir.ca.gov/DWC/dwc_home_page.htm) or upon request to the Administrative Director at:

DIVISION OF WORKERS' COMPENSATION
(ATTENTION: OMFS - PHARMACY)
P.O. BOX 420603
SAN FRANCISCO, CA 94142.

(b) For a pharmacy service or drug that is not covered by a Medi-Cal payment system, the maximum reasonable fee paid shall not exceed the fee ~~specified in the OMFS 2003-~~ *determined in accordance with this subdivision, plus \$7.25 professional fee for dispensing or \$8.00 if the patient is in a skilled nursing facility or an intermediate care facility.*

(1) If the National Drug Code for the drug product as dispensed is not in the Medi-Cal database, and the National Drug Code for the underlying drug product from the original manufacturer appears in the Medi-Cal database, then the maximum fee shall be the fee allowed pursuant to section 14105.45 of the Welfare and Institutions Code using the National Drug Code for the underlying drug product from the original manufacturer as it appears in the Medi-Cal database, calculated on a per unit basis.

(2) If the National Drug Code for the drug product as dispensed is not in the Medi-Cal database and the National Drug Code for the underlying drug product from the original manufacturer is not in the Medi-Cal database, then the reimbursement shall be the average wholesale price of the lowest priced therapeutically equivalent drug minus 17 percent, calculated on a per unit basis.

(c) For purposes of this section:

(1) "therapeutically equivalent drugs" means drugs that have been assigned the same Therapeutic Equivalent Code starting with the letter "A" in the Food and Drug Administration's publication "Approved Drug Products with Therapeutic Equivalence Evaluations" ("Orange Book"). The Orange Book may be accessed through the Food and Drug Administration's website: <http://www.fda.gov/cder/orange/default.htm>;

(2) "National Drug Code for the underlying drug product from the original manufacturer" means the National Drug Code of the drug product actually utilized by the repackager in producing the repackaged product.

Authority: Sections 133, 4603.5, 5307.1 and 5307.3, Labor Code. Reference: Sections 4600, 4603.2 and 5307.1, Labor Code.

Draft Pharmacy Regulation 12 16 2005