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State of California

# DWCNewsline

Division of Workers' Compensation  
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## **The California Division of Workers' Compensation files final pharmacy fee schedule regulation amendments with the Office of Administrative Law**

The California Division of Workers' Compensation (DWC) has filed the final text of amendments to the pharmaceuticals section (9789.40) of the Official Medical Fee Schedule with the Office of Administrative Law (OAL). OAL will immediately file the regulations with the secretary of state and the changes will become effective Mar. 1, 2007.

The text of the regulations is the same as was proposed in the notice of rulemaking posted Sep. 12, 2006, except for technical changes in language, which were made to make the regulation more clear, and a change in the effective date from Dec. 1, 2006, to Mar. 1, 2007. Because section 9789.40, pharmacy, establishes or fixes rates within the meaning of Government Code section 11340.9(g), the regulation is not subject to review by OAL.

The adopted version of the amendments to the regulation closes a loophole created by legislation passed in 2003. Under that legislation, Labor Code section 5307.1 required that reimbursement rates for medical services, except physician fees, be in accordance with the relevant Medicare and Medi-Cal payment systems. However, the Medi-Cal system does not allow drugs to be dispensed by doctors in their offices. This loophole in the payment structure allowed doctors to be reimbursed for drugs dispensed during office visits at much higher rates than those paid to pharmacies for the same drugs. This regulation closes that loophole.

Concurrently with the adoption of this regulation, DWC is in the process of adopting a revision to the physician fee schedule within the Official Medical Fee Schedule, which will substantially increase the reimbursement rates for the most commonly used procedure codes for evaluation and management.

This regulation as filed with the OAL can be found on the DWC Web site at [http://www.dir.ca.gov/dwc/DWCPropRegs/OMFS\\_Pharmaceuticals/OMFS\\_Pharmaceuticals\\_regulations.htm](http://www.dir.ca.gov/dwc/DWCPropRegs/OMFS_Pharmaceuticals/OMFS_Pharmaceuticals_regulations.htm).

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