

Need to Know: 2019 NYS Workers' Compensation Industry Update

The New York State Workers' Compensation Board has approved **final rules and a new fee schedule for the medical treatment** of workers' compensation claims. This update is the first significant change in fees in nearly two decades, and will result in an overall increase in medical fees of 5%. This increase will not be uniformly distributed, and will impact rural vs. urban areas differently and increases will differ for different specialties and types of medicine. NCA will keep an eye on how this will impact your specific claims as we see this fee schedule roll out in April 2019.

- This update was needed to appease the many unhappy medical providers within the system, as the number of medical professionals treating workers' compensation patients has declined dramatically.
- The final rules and fee schedule are not published on the Workers' Compensation Board website but are available for physical review and district offices, or for purchase through an approved publishing vendor.

The Workers' Compensation Board has proposed a new **fee schedule for prescription drugs**, which was published 12/5/18 and is currently within the 60 day comment period. As the new regulations are written in their current form, there are changes to the definitions of drug pricing, which will more closely regulate the price that the payer (i.e. self-insured employer) will pay for the benefit.

- A new subdivision was added to regulate the treatment of rebates, or revenue paid to the PBM by a drug manufacturer as a result of bulk prescription purchasing. In the past, PBMs had offered this benefit to administrators as a marketing tool. NCA had never accepted these payments, as the PBMs were unable to delegate the rebate back to a particular claim file (instead asking for lower overall program costs). The new language in the regulation requires that all rebates are passed through to the self-insured employer. This provision will be heavily objected to by PBMs. The PBM that NCA works with is working to operate within these provisions.
- The fee schedule for individual prescriptions has been capped.
- Repackaged drugs (often referred to as physician-dispensed medications) and compound medications will now be controlled by a maximum fee schedule, whereas the price had not been regulated before.

Medical marijuana continues to be a hot topic nationally and in the workers' compensation industry. This is just starting to impact New York State. The drug is still illegal federally, which makes the rollout here more complex. At NCAComp, we continue to deny the medication as unapproved by the FDA. However, we have begun seeing administrative law decisions in the state where the Workers' Compensation Board has authorized payment when the claimant is utilizing medical marijuana per New York State regulations from an authorized provider. The WCB is not requiring direct payment, but a reimbursement to the claimant of the cost of the prescription. There have been no official policy statements nor regulations from the WCB on this topic.

If you have any questions on this white paper or other workers' compensation topics, please reach out to Erin Jordan at ejordan@ncacomp.com