

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 368
Economic Matters

(Delegate Jameson, *et al.*)

Workers' Compensation - Prescription Drugs - Choice of Pharmacy

This bill prohibits an employer or its insurer that is required by the Workers' Compensation Commission (WCC) to provide a prescription drug under the Workers' Compensation Law from requiring an injured employee to fill the prescription at a pharmacy selected by the employer or its insurer.

Fiscal Summary

State Effect: State expenditures (all funds) increase to the extent that the bill results in any injured employees receiving medication through workers' compensation insurance filling their prescriptions at different pharmacies when they otherwise would have chosen a preferred provider benefits program pharmacy.

Chesapeake Employers' Insurance Company Effect: Chesapeake Employers' Insurance Company (Chesapeake) expenditures increase to the extent that the bill results in any injured employees receiving medication through workers' compensation insurance filling their prescriptions at different pharmacies when they otherwise would have chosen a preferred provider benefits program pharmacy.

Local Effect: Expenditures for self-insured counties and municipalities increase to the extent that the bill results in any injured employees receiving medication through workers' compensation insurance filling their prescriptions at different pharmacies when they otherwise would have chosen a preferred provider benefits program pharmacy.

Small Business Effect: Minimal. Costs to small business increase to the extent that the bill results in any injured employees receiving medication through workers' compensation insurance filling their prescriptions at different pharmacies when they otherwise would have chosen a preferred provider benefits program pharmacy.

Analysis

Current Law/Background: If an employee covered under workers' compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to make a workers' compensation claim with WCC. After receiving a compensation claim, WCC may investigate the claim and must order a hearing if requested to do so by any party to the claim. WCC is required to make or deny an award within 30 days after the mailing of the notice of the filing of a claim or, if a hearing is held, after the hearing is concluded.

In addition to monetary compensation required by the Workers' Compensation Law, WCC may require the employer or its insurer to pay for specified medical care and treatment. This includes (1) medical, surgical, or other attendance or treatment; (2) hospital and nursing services; (3) medicine; (4) crutches and other apparatus; and (5) artificial arms, feet, hands, and legs and other prosthetic appliances. This medical care and treatment must be provided for an appropriate time period, depending on the nature and type of personal injury, compensable hernia, or occupational disease.

WCC reports that, in Maryland, medical providers, including pharmacies, can be selected by a claimant injured worker. However, sometimes a claimant cannot find a medical provider in his or her area who is willing to provide medical treatment because no provider in the area is willing to accept the rules of the Medical Fee Guide. In these circumstances, it is often suggested that parties should consider contacting the employer or its insurer for suggestions for medical providers in the area. Insurers often have data listing participating medical providers in the various regions of the State, based on their payment records. Employers may also prefer an injured worker to have prescription drugs filled by their "preferred provider" benefits program.

This type of program, which may include a list of covered pharmacies, may save the employer money at no additional cost to its workers. Montgomery County reports that it saves as much as \$500,000 in expenditures per year due to employees using its Pharmacy Benefits Management network. Likewise, Chesapeake reports that, between 2008 and 2013, Chesapeake/IWIF paid \$13.4 million for prescription drugs in connection with workers' compensation claims involving State of Maryland employees and that many of the prescriptions involved were filled at 80% of the average wholesale price (AWP) for the drugs involved due to use of its preferred provider benefits program. *For illustrative purposes only*, if only half of these prescriptions (\$6.7 million) were purchased at 100% AWP, State expenditures over the six-year period would have increased by almost \$1.7 million due to the 25% increase in costs for those drugs.

State/Chesapeake/Local/Small Business Effect: To the extent that the bill results in any injured employees receiving medication through workers' compensation insurance

filling their prescriptions at different pharmacies when they otherwise would have chosen a preferred provider benefits program pharmacy, expenditures increase. For example, Chesapeake reports that its Prescription Benefits Manager is often able to offer prescriptions at 80% AWP for the drugs involved, whereas other pharmacies may charge between 100% and 130% AWP. The number of employees who would choose other pharmacies cannot be reliably estimated at this time; however, the explicit ability for employees to use any pharmacy increases the likelihood that they would do so.

Additional Information

Prior Introductions: None.

Cross File: SB 482 (Senators Klausmeier and Kelley) – Finance.

Information Source(s): Department of Budget and Management; Department of Health and Mental Hygiene; Injured Workers' Insurance Fund/Chesapeake Employers' Insurance Company; Maryland Insurance Administration; Subsequent Injury Fund; Workers' Compensation Commission; Dorchester, Garrett, Howard, and Montgomery counties; Department of Legislative Services

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