SENATE BILL 914

K1 3lr3143
CF 3lr3082

By: **Senator Klausmeier**
Introduced and read first time: February 13, 2013
Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

Workers' Compensation – Reimbursement for Drugs – Fee Schedule and Requirements

FOR the purpose of requiring the Workers' Compensation Commission to adopt in regulation a pharmaceutical fee schedule; providing for the setting of reimbursement rates for certain drugs; requiring the Commission to select and designate in regulation a certain publication to be used for certain purposes; requiring that the Commission use the most recent issue of a certain publication for certain purposes; requiring that a certain bill submitted to an employer or its insurer for reimbursement of a certain drug contain certain information; requiring an employer or its insurer to reimburse a claimant for a certain drug under certain circumstances; and generally relating to the reimbursement for drugs under workers' compensation.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–663
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY adding to
Article – Labor and Employment
Section 9–665
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

9–663.

(a) (1) The Commission shall adopt regulations setting standards for the assessment of fines under § 9–664 of this Part IX of this subtitle.

(2) The Commission may adopt regulations about:

(i) the provision of medicine and medical, nursing, and hospital services to a covered employee;

(ii) payment for the medicine and services; and

(iii) the exercise by the Chairman of the Commission of the powers granted under § 9–662 of this subtitle.

(b) (1) The Commission may regulate fees and other charges for medical services or treatment under this subtitle.

(2) Each fee or other charge for medical service or treatment under this subtitle is limited to the amount that prevails in the same community for similar treatment of an injured individual with a standard of living that is comparable to that of the covered employee.

(3) At least once every 2 years, the Commission shall:

(i) review its guide of medical and surgical fees for completeness and reasonableness; and

(ii) make appropriate revisions to the guide of medical and surgical fees.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SECTION, THE COMMISSION SHALL ADOPT IN REGULATION A PHARMACEUTICAL FEE SCHEDULE.

(2) (I) THE PHARMACEUTICAL FEE SCHEDULE ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

1. FOR BRAND NAME PRESCRIPTION DRUGS, SET THE REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE AVERAGE WHOLESALE PRICE ESTABLISHED BY THE ORIGINAL MANUFACTURER PLUS A DISPENSING FEE;

2. FOR GENERIC EQUIVALENT PRESCRIPTION DRUGS, SET THE REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE

AVERAGE OF ALL WHOLESALE PRICES FOR PRODUCTS THAT HAVE BEEN APPROVED AS THERAPEUTICALLY EQUIVALENT PLUS A DISPENSING FEE;

3. FOR REPACKAGED DRUGS, SET THE REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE AVERAGE WHOLESALE PRICE ESTABLISHED BY THE ORIGINAL MANUFACTURER THAT IS BASED ON THE NATIONAL DRUG CODE OF THE PRIMARY UNDERLYING ACTIVE DRUG USED IN THE REPACKAGING PLUS A DISPENSING FEE; AND

4. FOR COMPOUNDED DRUGS, SET THE REIMBURSEMENT RATE AT AN AMOUNT NOT TO EXCEED THE AVERAGE WHOLESALE PRICE OF THE INGREDIENTS USED TO MAKE THE COMPOUNDED DRUG PLUS A DISPENSING FEE.

(II) 1. THE COMMISSION SHALL SELECT AND DESIGNATE IN REGULATION THE NATIONALLY RECOGNIZED PHARMACEUTICAL PUBLICATION THAT THE COMMISSION WILL USE TO DETERMINE THE AVERAGE WHOLESALE PRICE FOR BRAND–NAME AND GENERIC–EQUIVALENT DRUGS.

2. IN DETERMINING THE AVERAGE WHOLESALE PRICE FOR BRAND–NAME AND GENERIC–EQUIVALENT DRUGS, THE COMMISSION SHALL USE THE PRICING IN THE MOST RECENT ISSUE OF THE PUBLICATION DESIGNATED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

9–665.

(A) A PHARMACEUTICAL BILL SUBMITTED TO AN EMPLOYER OR ITS INSURER FOR REIMBURSEMENT OF A REPACKAGED OR COMPOUNDED DRUG SHALL INCLUDE THE ORIGINAL MANUFACTURER OR DISTRIBUTOR STOCK PACKAGE NATIONAL DRUG CODE FOR EACH DRUG USED IN THE REPACKAGED OR COMPOUNDED DRUG.

(B) IF AN EMPLOYER OR ITS INSURER PREAUTHORIZED THE USE OF A REPACKAGED OR COMPOUNDED DRUG THAT CONTAINED A DRUG THAT IS NOT APPROVED FOR USE BY THE FEDERAL FOOD AND DRUG ADMINISTRATION OR THAT DOES NOT HAVE AN ASSIGNED NATIONAL DRUG CODE, THE EMPLOYER OR ITS INSURER SHALL REIMBURSE THE CLAIMANT FOR THE DRUG.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.