California DWC Publishes Draft Pharmacy Fee Schedule Rule

June 23, 2020
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Brian Allen

VP of Government Affairs, Enlyte Pharmacy Solutions

The California Division of Workers' Compensation (DWC) recently published a long-awaited draft pharmaceutical fee schedule rule. Since the California workers' compensation reform bill passed in 2004, the workers' compensation pharmacy fee schedule has been tied to the Medi-Cal fee schedule. In 2018, the Medi-Cal system adopted changes to its fee schedule that increased the dispensing fee and created a two-tier amount based on the volume of medications dispensed by a pharmacy. The DWC adopted that methodology in the new proposed rule and made additional changes in the reimbursement related to repackaged and compounded medications.

The following is the proposed reimbursement for prescription medications:

- **For legend and non-legend medications dispensed by a pharmacy**, including a mail-order pharmacy, the reimbursement is the lesser of the drug's ingredient cost plus the professional dispensing fee or the pharmacy's usual and customary charge to the public.
    - The drug ingredient cost is defined as the lowest of:
        - The National Average Drug Acquisition Cost (NADAC) of the drug or when no NADAC is available, the Wholesale Acquisition Cost (WAC) plus 0%, or
        - The Federal Upper Limit (FUL), or
        - The Maximum Allowable Ingredient Cost (MAIC).
    - The professional dispensing fee is:
        - $10.05 for pharmacies processing more than 90,000 pharmacy claims per year from all sources.
        - $13.20 for pharmacies processing up to 90,000 pharmacy claims per year from all sources.
        - The DWC will provide a look-up tool based on the pharmacy's National Provider Identifier (NPI).

- **For compounded medications dispensed by a pharmacy**, the reimbursement is the same as noted above for pharmacy-dispensed legend and non-legend medications, including the professional dispensing fee and any sterility and compounding fees allowed by Medi-Cal, with the following qualifiers:
  - Ingredients without a valid NDC are not reimbursable.
  - Unfinished drug products are reimbursed at the actual cost of the product based on the units used in the compound, plus 10%.
  - Compounds that are essentially copies of commercially available drugs are not reimbursable.
- **For physician-dispensed medications**:
  - **For legend drugs**, the reimbursement is the lesser of the drug ingredient cost (as defined above) or the physician's usual and customary charge to a patient.
  - **For repackaged drugs**, reimbursement shall not exceed the fee allowed for legend drugs.
    - Based on the National Drug Code (NDC) of the original product used in the repackaging, or
    - If the NDC is not in the Medi-Cal database, the NDC of the lowest priced therapeutically equivalent drug.
  - **For non-legend drugs**, the lesser of:
    - The drug ingredient cost as defined for pharmacy dispensed medications above, or
    - 120% of the documented paid cost of the medication, or
    - 100% of the documented paid cost plus $250.00.
  - **For compounded medications dispensed by a physician**, the lesser of:
    - Drug ingredient cost for compounds dispensed by a pharmacy as stated above, or
    - 300% of documented paid cost, but not more than $20.00 above documented paid cost.
  - Physician-dispensed medications are not eligible for a professional dispensing fee.

The proposed fee schedule will be effective 60 days following the filing with the Office of Administrative Law. The DWC is accepting comments on the proposed rule through July 3, 2020. Mitchell Pharmacy Solutions is evaluating the rule and the processes for implementing and will submit comments to the DWC.

The complete rule and associated documents can be found here. Comments can be submitted by email to DWCForums@dir.ca.gov.

For questions regarding this alert, or any other regulatory or legislative matters, please contact Brian Allen, Vice President of Government Affairs at Brian.Allen@mitchell.com or at 801.903.5754.

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